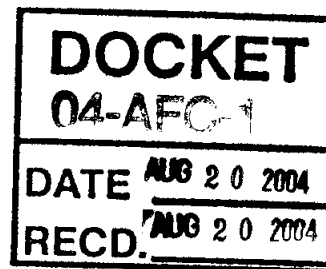


CH2M HILL
2485 Natomas Park Drive
Suite 600
Sacramento, CA 95833



CH2MHILL

August 20, 2004
184288



Mr. William Pfanner
Siting Project Manager
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814-5504

RE: Informal Data Response, Set 3 (Data Workshop)
San Francisco Electric Reliability Project (04-AFC-1)

Dear Bill:

On behalf of the City of San Francisco, please find attached 12 copies and one original of the Informal Data Response, Set 3 (Data Workshop Responses), in response to Staff's Informal Data Requests received at the July 19, 2004 Data Response Workshop. We are filing copies of this Informal Data Response both electronically and in hard copy.

Please call me if you have any questions.

Sincerely,

CH2M HILL

John L. Carrier, J.D.
Program Manager

c: Project File
Proof of Service List

**SAN FRANCISCO ELECTRIC
RELIABILITY PROJECT
(04-AFC-1)**

INFORMAL DATA RESPONSE SET 3
(FROM THE ISSUE RESOLUTION WORKSHOP:
LU-124 -129, NO-130, S&W-131-144, WM-145, TSE-146, AQ-147-149,
PH-150 and HM-151)

Submitted by
CITY AND COUNTY OF SAN FRANCISCO

August 20, 2004



2485 Natomas Park Drive, Suite 600
Sacramento, California 95833-2937

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

Technical Area: Land Use

DATA REQUEST

LU-124. Would like a copy of Resolution 16-202 (referenced in DR #30)

Response: A copy of Resolution 16-202 is provided as Attachment LU-124.

LU-125. Where does the Central Waterfront Neighborhood Plan stand now?
When is it expected to be adopted?

Response: The City is in the process of finalizing a consultant agreement for the preparation of an Environmental Impact Report (EIR) on the Plan. Work on the EIR should commence within the next few weeks. The EIR process is expected to take between 18 and 24 months. Adoption should follow soon after the EIR process is complete.

LU-126. Please provide a copy of the term sheet with Mirant.

Response: A copy of the term sheet is provided as Attachment LU-126.

LU-127. Please provide an update on the status of the gas and transmission line.

Response: PG&E has completed a system impact study and a facility study for the electric interconnection of the SFERP to PG&E's transmission system. The City and PG&E are negotiating a generator special facilities agreement with PG&E at this time.

PG&E completed a system impact study for the interconnection to PG&E's gas system. PG&E has forwarded a draft Agreement to Perform Tariff Schedule Related Work to the City. Pursuant to the Agreement PG&E would undertake activities to further final design and job approvals for a gas service connection. The Agreement is currently under City review.

LU-128. Please provide a status of negotiations with CAISO.

Response: See response to San Francisco Community Power Data Request number 6.

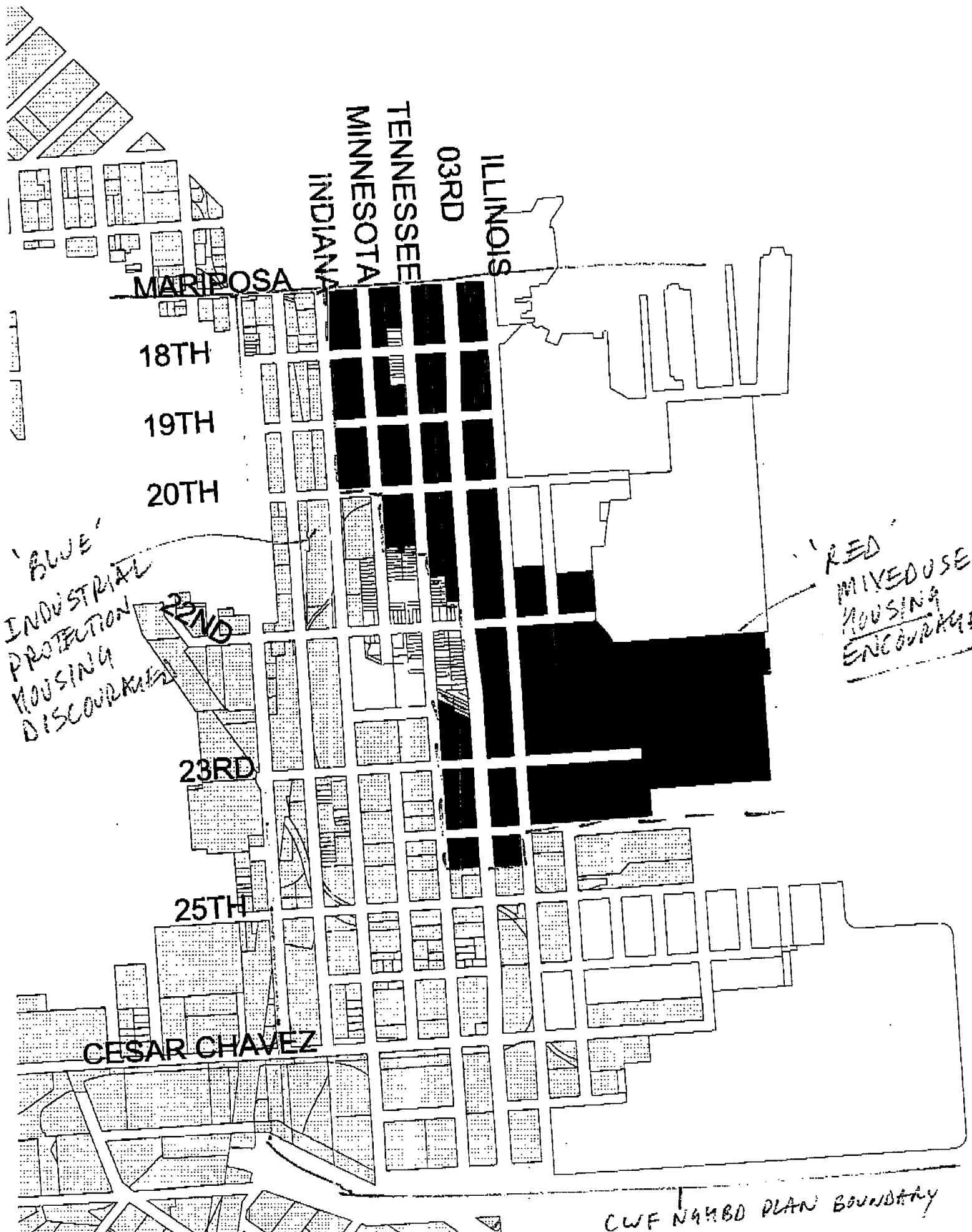
LU-129. What are the City's plans to purchase the Hunter's Point Power Plant parcel?

Response: Pursuant to a July 9, 1998 agreement between the City and County of San Francisco and PG&E, the City has a right of first refusal to acquire the Hunters Point Power Plant site. There is no current City policy to acquire the Hunters Point Power Plant site at this time.

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

ATTACHMENT LU-124

Resolution 16-202



MARIPOSA

18TH

19TH

20TH

'BLUE'
INDUSTRIAL
PROTECTION
HOUSING
DISCOURAGED

23RD

25TH

CESAR CHAVEZ

ILLINOIS
03RD
TENNESSEE
MINNESOTA
INDIANA

'RED'
MIXED USE
HOUSING
ENCOURAGED

CWF N4MBD PLAN BOUNDARY

Aug 9 - 2001

File No. 2001.0602TZ
Resolution Establishing Policies and
Procedures For Development
Proposals Industrial Zoning Districts
Page 1

**SAN FRANCISCO
CITY PLANNING COMMISSION
RESOLUTION NO. 16202**

**ESTABLISHING POLICIES AND PROCEDURES FOR DEVELOPMENT PROPOSALS IN
INDUSTRIAL ZONING DISTRICTS.**

WHEREAS, On November 2, 2000, the Planning Commission by Resolution 16079 extended for a period of nine months the Interim Zoning Controls (hereinafter "Interim Controls") which established an Industrial Protection Zone and Mixed Use Housing Zones within the City's industrially zoned land, as described in Planning Commission Resolution No. 14861, adopted August 5, 1999; and

Subsequent to adoption of the Interim Controls in 1999, several new issues have recently emerged which need to be taken into account in the development of permanent zoning regulations to replace the Interim Controls for the City's industrially zoned land. These new issues include increased permit activity related to multi-media/internet technology businesses within industrially zoned lands; legislative proposals recently introduced by the Board of Supervisors; and potential redevelopment plan areas under consideration by the San Francisco Redevelopment Agency; and

As a result of the competition between office uses and production, distribution and repair businesses, and the market pressures favoring office development, the supply of industrially zoned land and building space available to production, distribution and repair (PDR) businesses is at risk, and is expected to continue to diminish in the future unless protected; and

The South of Market, Mission and Central Waterfront areas all contain an intensive mix of industrial, office, retail and residential uses. Those areas are each expected to undergo further planning study to determine the appropriate long-term mix of land uses for those respective areas; and

The industrially zoned land on either side of Cesar Chavez Street to the County line is predominantly in industrial use and provides a large supply of land and building space for such use which should be protected from both housing and office development; and

Additional policy direction from the Planning Commission is necessary to protect and preserve the City's diminishing supply of industrially zoned land and building space, and to alleviate the threat to that limited supply of industrially zoned land and building space caused by office development in certain industrially zoned areas; and

Additional policy direction from the Planning Commission is necessary to provide guides for development proposals in these newly created study areas and to respond to current issues within the City's industrially zoned land pending the development of permanent replacement zoning controls; and

At the regularly scheduled meeting of the Planning Commission on July 19, 2001, the Planning Department staff presented a definition of Production, Distribution and Repair (PDR) uses as defined in Exhibit B (attached);

NOW THEREFORE BE IT RESOLVED, Subject to the Commission's exercise and use of its Discretionary Review authority, as further resolved herein, that the Planning Commission establishes the following policies and procedures for the two areas identified as Industrial Protection Zone and Housing Zone in Exhibit A (attached):

1. Industrial Protection Zone
! Discourage the new development of or conversion of existing uses to office, housing and/or live/work.
2. Housing Zone
! Encourage mixed-use housing development, especially proposals for housing that maximize the allowable densities and affordability standards.

BE IT FURTHER RESOLVED, That the Commission will continue to use its Discretionary Review authority to ensure appropriate levels of public input for development proposals in the "Industrial Protection Zone" shown in Exhibit A. In its exercise of Discretionary Review authority on proposals for development of or conversion to office, live/work or housing that is principally permitted by the underlying zoning in this "Industrial Protection Zone" the Planning Commission shall consider, but not be limited to, the following:

- Conformance with the adopted Industrial Area Design Guidelines.
- Displacement either by conversion or demolition of any legal dwelling units.
- Displacement of any existing businesses.
- Site has been unoccupied or vacant for at least a period of twelve months.

I hereby certify that the foregoing Resolution was ADOPTED by the Planning Commission on August 9, 2001,

Linda Avery
Commission Secretary

AYES: Baltimore, Chinchilla, Fay, Joe, Lim, Salinas, Theoharis
NOES: NONE
ABSENT: NONE
ADOPTED: August 9, 2001

EXHIBIT B

SAN FRANCISCO PLANNING DEPARTMENT

City Planning Commission, July 19, 2001

PRODUCTION, DISTRIBUTION, AND REPAIR

PRODUCTION AND REPRODUCTION OF GOODS

- Fashion/garment design manufacture
- Event production and catering
- Construction contractors
- Printers, designers, photographers
- Food processing
- Manufacturers of furniture, specialty fixtures, custom wood, and metal work
- Film producers and sound recording

MOVEMENT OF GOODS, PEOPLE, INFORMATION

- Delivery services: messengers, airport shuttle vans, taxis, limousines
- Food and beverage wholesalers and distributors serving groceries stores, restaurants, hotels
- Wholesalers of furniture, flowers, equipment, appliances
- Interior design and construction storage and showrooms
- Building material suppliers
- Self storage and moving companies
- Storage of essential equipment and materials, shipping & handling, and trucking

REPAIR SERVICES

- Repair shops for cars and trucks
- Repair shops for equipment, appliances, and furniture
- Business and home repair services

BUSINESS SERVICES

Services to businesses and/or the general public including:

- Radio and television stations
- Newspaper bureaus
- Magazine and trade publication publishing
- Desktop publishing
- Product testing laboratories
- Microfilm recording
- Slide duplicating
- Bulk mail services
- Parcel shipping services
- Parcel labeling and packaging services
- Messenger delivery/courier services
- Uniform security services
- Sign painting and lettering services
- Building maintenance services
- Interior decorating services

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

ATTACHMENT LU-126

Term Sheet

TERM SHEET

This term sheet, dated as of April 30, 2004, summarizes certain basic terms of a proposed Option Agreement for the Purchase of Real Property (the "Option") by and between MIRANT POTRERO, LLC, a Delaware limited liability company ("Mirant"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), acting by and through its Public Utilities Commission ("SFPUC").

This term sheet is intended to be the basis for a final Option. Mirant and City hereby agree that, subject to all required approvals as further set forth below, the key terms of the Option shall be as follows:

1. Property. The Option shall grant the City the right to purchase that certain approximately 4.5-acre property commonly know as Station A of the Potrero Power Plant, as more particularly shown on Exhibit A attached hereto.
2. Term. The term of the Option shall be for a six-month term. The City may extend the Option for three additional six-month terms by tendering the Option Consideration for each additional term prior to the expiration of the then active Option Term.
3. Option Consideration. City shall pay Mirant six hundred thousand dollars (\$600,000) for each six-month Option term.
4. Purchase Price. The purchase price for the Property shall be twelve million dollars (\$12,000,000); the full amount of the option consideration paid by the City to Mirant shall be credited against the Purchase Price at the close of escrow.
5. Prior Approval. The Option agreement shall be subject to the prior approval of the SFPUC. The Option Agreement (but not City's exercise of its purchase rights thereunder) shall also be subject to the prior approval of the Federal Bankruptcy Court in Ft. Worth, Texas including any requisite committee approvals.

6. As-Is. The City shall purchase the Property on a "as-is" basis, without any representation or warranties, other than the specific representations by Mirant as to its knowledge regarding property conditions, including environmental conditions.
7. Demolition Costs. At closing, City shall reimburse Mirant for its actual and reasonable third-party costs of certain demolition work incurred prior to exercise of the Option ("Demolition Costs"), up to a maximum of two million two hundred thousand dollars (\$2,200,000). Mirant will be responsible for additional Demolition Costs in excess of two million two hundred thousand dollars (\$2,200,000) and up to three million two hundred thousand dollars (\$3,200,000). In the event that Demolition Costs exceed \$3,200,000 ("Excess Demolition Costs"), either party will have the option, but not the obligation, to pay the Excess Demolition Costs at its sole expense. If neither party elects to pay the Excess Demolition Costs, the City will have the right to terminate the Option and recover any Option Consideration previously paid to Mirant.
8. Conditions to Close. Close of escrow under the Option shall be subject to, among other things, the prior approval of the City's Board of Supervisors, SFPUC and Mayor, in their respective sole and absolute discretion, after the completion of all required environmental review under CEQA and any other necessary governmental approvals, and on the City's having funds available to pay the Purchase Price. If the City exercises the Option, the City will have 90 days to raise the requisite funds to pay the Purchase Price and close escrow ("Grace Period"). If after the Grace Period the City has still failed to obtain the funds necessary to close escrow, the City has the right to pay an extension fee of \$3,333 per day ("Extension Fee") until it has obtained funds to close, for a period of time not to exceed 270 days from the expiration of the Grace Period ("Extension Period"). In the event the City still has not raised the requisite funds to close escrow at the end of the Extension Period, the Option will terminate and Mirant will be entitled to any Option Consideration and Extension Fees paid by City. The full amount of Extension Fees paid by the

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City to Mirant shall be credited against the Purchase Price at the close of escrow.

9. Status of AFC. Mirant shall suspend its Application for Certification for Potrero 7 during the Term of the Option and shall withdraw its request for interconnection, and relinquish its interconnection queue position upon CEC certification of the City's project on the Property.
10. Right of first refusal and covenant to consider larger sale. Mirant shall grant the City a right of first refusal to purchase Mirant's entire 27-acre Potrero power plant site, and shall work together with City in good faith to evaluate possible transfer of the balance of the entire site to the City either through a negotiated sale or through settlement of the State of California's and the City's lawsuits against Mirant.
11. Shut down of Potrero Units 4, 5 and 6. Provided that the Option Agreement is exercised and the City and Mirant close on the sale of the Property, Mirant will permanently shut down Potrero Units 4, 5 and 6 as soon as these units are no longer needed to sustain electric reliability and the Federal Energy Regulatory Commission (FERC) has authorized the termination of the Must Run Services (RMR) Agreement between Mirant Potrero, LCC and the California Independent System Operator with regards to those units.

While this term sheet summarizes certain essential terms of the proposed Option, it does not set forth all of the material terms and conditions of the Option, and this Term Sheet is not intended to be, and shall not become, contractually binding on the City (including its SFPUC) or Mirant, and no legal obligation shall exist pursuant to this Term Sheet unless and until the parties have negotiated, executed and delivered a mutually acceptable Option, and have obtained all requisite approvals for such Option. The parties shall work in good faith to complete a final draft of the Option by May 19, 2004.

MIRANT:

MIRANT POTRERO LLC, a Delaware limited liability company

By: Anne M. Cleary
Its: Anne M. Cleary
President
By: _____
Its: _____

Date: April 30, 2004

CITY:

CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation

By: Patricia S. Martel
Date: 4/30/04

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

Technical Area: Noise

DATA REQUEST

NO-130. Please provide the applicable noise LORS. (Provide a website).

Response: Article 29 of the Police Code is available at the following website:
http://www.amlegal.com/sfplan_nxt/gateway.dll?f=templates&fn=default.htm&vid=alp:sf_police. In addition, the Environmental Protection Plan Element of the City General Plan contains objectives and policies related to noise. These include objective 9: "reduce transportation related noise" and associated policies 9.1 through 9.6, and objective 10 "minimize the impact of noise on affected areas" and associated policies 10.1 through 10.3. The City General Plan is available at the following website:
http://www.sfgov.org/site/planning_index.asp?id=24812

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

Technical Area: Soil and Water Resources

DATA REQUEST

S&W-131. Please provide the information required by Article 22A of the San Francisco Health Code.

Response: As stated at the workshop, the information will be provided to the CEC at the same time that it is provided to the San Francisco Department of Public Health.

S&W-132. Specify whether the water generated from dewatering activities will be discharged to the City's combined sewer system.

Response: Water generated from dewatering activities will be discharged to the City's combined sewer system. All industrial wastewater, including water from dewatering activities, discharged into the City's sewer system must comply with the provisions of local regulations - Department of Public Works Order No. 158170 and Article 4.1 of the San Francisco Public Works Code (Industrial Waste Ordinance). A copy of these two sets of regulations is provided as Attachment S&W-132

S&W-133. Please check with the City to see if there are any conditions to the project that it will impose on the project in the final will-serve letters.

Response: The June 30, 2004 letter (Proposed SFERP - Industrial Wastewater and Stormwater Discharge Permit Requirements) submitted in response to Data Request #51 specifies all of the conditions that will be imposed for discharges into the City's sewer system. These conditions are outlined in local regulations - Department of Public Works Order No. 158170 and Article 4.1 of the San Francisco Public Works Code (Industrial Waste Ordinance).

Since the design of the new facility will allow for the use of recycled water or potable water for cooling purposes, the final will-serve letter for potable water may include conditions requiring cross-connection control to prevent any potential cross-contamination of the potable water system.

S&W-134. Please provide an estimate of the amount of water-borne soil erosion expected without implementation of any BMPs (see Data Request #53).

Response: The amount of soil erosion expected without implementation of any BMPs was provided in the Data Adequacy Supplement. For soil erosion by water, these estimates were provided in Table 8.9-4. (This table from the Data Adequacy Supplement is provided below for reference). For conditions without controls (i.e., no BMPs), row 1, "Bare Ground Smooth Surface" provides the estimated erosion to both the plant site and the laydown area during construction. Row 2, Bare Ground Rough Surface estimates soil loss

SAN FRANCISCO ELECTRIC RELIABILITY PROJECT (04-AFC-1) INFORMAL WORKSHOP

during active grading/demolition. Based on the table, it is estimated that between 19.6 tons and 22.1 tons of soil would be lost from water erosion without implementation of any BMPs. However, with implementation of all standard BMPs, it is estimated that soil loss would be negligible. As previously indicated, estimates of soil loss by water was completed using the Revised Universal Soil Loss Equation (RUSLE2). Because the RUSLE2 model was developed for agricultural activities, it does not have the capability of evaluating the effect of each individual BMP on soil losses. However, experience has shown a substantial reduction of soil loss (to negligible levels) with implementation of the standard BMPs.

TABLE 8.9-4
Estimated Soil Loss by Water Erosion (Without Controls) During Construction

Surface Type	Soil loss in tons/acre/ year	Months	Estimated Soil Loss (in tons)		
			Site	Laydown	Total
Bare Ground Smooth Surface (During Construction)	1.2 to 1.3	S: 10 L: 0	4.5 to 4.9	0	4.5 to 4.9
Bare Ground Rough Surface (During Active Grading/Demolition)	2.9 to 3.3	S: 5 L: 4	5.4 to 6.2	9.7 to 11.0	15.1 to 17.2
Tall Fescue/Not Harvested (Undisturbed State)	0.0037 to 0.0043	Not applicable	0.017 to 0.019 tons/yr	0.037 to 0.043 tons/yr	0.054 to 0.062 tons/yr

S = site
L = laydown area

Assumptions:

The range in soil loss is due to range in soil conditions. Lower number is for sand and the higher number is for loamy sand. No number is provided for the third type of soil observed at the site, sandy gravelly clay, which would have lower erosion rates than the two provided.

The final state of the site during operations will be completely paved or otherwise covered so soil erosion loss at that point would be negligible.

S&W-135. Was the overflowing of the sewer system mentioned in the flooding response, due to lack of cleaning or lack of capacity? (See Data Request #55).

Response: As stated in Data Response #55 (Set 1A), the project vicinity has not been identified as an area prone to flooding from the combined sewer system. The SFPUC Operations database, which is used to record all reported flooding incidents since 1995, only includes 5 flooding complaints in the project area. Verification of the information recorded for the 5 complaints indicates that the flooding incidents were caused by dirty catch basins (i.e., inadequate cleaning of catch basins) as opposed to the lack of adequate capacity. Further, it should be noted that the City of San Francisco has just initiated a comprehensive City-wide Clean Water Master Plan. This planning effort, combined with an

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

accelerated Sewer Repair and Replacement Program to address immediate flooding problems in specific areas of the City, will result in a Clean Water Capital Improvement Program (CIP) that will resolve localized capacity problems in the combined sewer system.

- S&W-136. Please describe where redundancy and back-up will be provided for critical equipment to ensure the operational reliability of the recycled water treatment facility?

Response: A major contributor to system reliability will be the use of two Membrane BioReactor (MBR) trains. This will allow the recycled water plant to continue operation even if one MBR train is inoperable or if the plant needs to operate at a reduced output. It is typical to provide redundant equipment in wastewater treatment facilities. (However, asset management has introduced an approach based on level of service.) Specifically, redundant equipment is when a spare piece of equipment is provided, and is only operated if the primary piece of equipment fails. As an example, if the design uses two lift pumps, a third equally-sized pump would be provided that would be standby, in the event that one of the other pumps failed. This design philosophy would be carried throughout the entire facility and will factor in the tankage and process systems. The specific spare equipment is usually determined during detail design, and only the design philosophy is presented in this phase of the project. The control system would also be designed with redundancy to reduce the chance of failure of the control system. The control system will be used to automate the processes. A well maintained control system will reduce operational requirements and provide reliable service.

- S&W-137. What design provision(s) will be provided to ensure that the secondary containment area used for chemical storage does not get filled with rainwater following rain events?

Response: The secondary containment systems have a drain connecting the containment systems to the oil water separation tank. There is a block valve in the drain line that is normally closed to prevent any accidental spillage from entering the oil water separator. As part of the plant's normal operating procedures (on a regular basis and/or after rainy weather) the level of water that has accumulated in the containment basin is checked. When necessary, after ensuring that the collected rainwater is free of any spill material, the rainwater is drained into the oil water separator by opening the block valve. When the collected rainwater has been removed, the block valve is closed.

- S&W-138. What is the approximate footprint of the water treatment building?

Response: Based on the preliminary design, the approximate dimensions of the recycle water treatment building are 150 feet by 64 feet.

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
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INFORMAL WORKSHOP**

S&W-139. What are the chemicals that have the greatest potential for affecting the community and what is the City's plan for spills and emergency response?

Response: The City has provided lists of the chemicals both used in the plant and generated as waste (see Sections 8.12 Hazardous Materials Handling and 8.13 Waste Management of the Application for Certification). Most of the waste materials comprise used lubricants and oils, which will be removed from the site by a waste oil recycling company. These waste lubricants pose a very low human health hazard and will be stored such that an accidental release to the environment will be contained onsite.

In addition to the 29 percent solution of aqueous ammonia (10,000 gallons), other chemicals of interest that will be stored at SFERP are sodium hypochlorite (870 gallons), sulfuric acid (400 gallons), and aluminum sulfate (800 gallons). These materials are additives used in the cooling tower or in the water treatment process. They are consumed in the process and produce no residual waste.

The aqueous ammonia is used in the air pollution control system (the selective catalytic reduction system) to control emissions of oxides of nitrogen (NO_x). The ammonia will be stored in a tank that will be surrounded by a secondary containment structure that will be sized to capture the entire contents of tank in the event of a catastrophic failure of the storage tank. Additional storage capacity will be provided for accumulated rainwater, if the secondary containment system is not covered.

The sodium hypochlorite is a 10 to 12 percent solution, which is used in the process water treatment system and the cooling tower to control biological growth (algae). The sodium hypochlorite will be stored in portable tanks (approximately 400 gallons each) near the cooling tower and the water treatment building. The sodium hypochlorite will be stored in a bermed area for secondary containment (an area capable of capturing any spills) that will be designed such that incompatible chemicals will be separated from each other to eliminate potential interactions/reactions in the event that the chemicals are accidentally released. Sodium hypochlorite is commonly used as a household laundry additive (bleach). It would have a concentration of between 5 and 6 percent.

The SFERP will use a 93 to 98 percent solution of sulfuric acid in the cooling tower to control water chemistry (i.e. pH). The SFERP facility will store sulfuric acid in a dedicated tank near the cooling tower and/or the water treatment building. The sulfuric acid will be stored in a bermed area that will be designed such that incompatible chemicals will be stored separately to eliminate potential interactions/reactions in the event that the chemicals are accidentally released. Sulfuric acid is one of the most commonly used industrial chemicals and is found in automobile batteries.

SAN FRANCISCO ELECTRIC RELIABILITY PROJECT

(04-AFC-1)

INFORMAL WORKSHOP

The aluminum sulfate will be used by SFERP in the water treatment process to remove impurities from the process water and will be stored in two 400 gallon tanks. The tanks will be stored in a bermed area of the same design as described above.

The entire SFERP facility will have controlled access with a standard chain-link perimeter fence. The site will be staffed 24-hours per day, 7 days per week. In addition to standard industrial business security measures, the City will be preparing a security plan that will include the following elements:

- Descriptions of the site fencing and security gate
- Evacuation procedures
- A protocol for contacting law enforcement in the event of conduct endangering the facility, its employees, its contractors, or public
- A fire alarm monitoring system
- Measures to conduct site personnel background checks, including employee and routine on-site contractors consistent with state and federal law regarding security and privacy
- A site access protocol for vendors
- A protocol for Hazardous Materials vendors to prepare and implement security plans as per 49 CFR 172.800 and to ensure that all hazardous materials drivers are in compliance with personnel background security checks as per 49 CFR Part 172, Subpart I

The plan will also include a demonstration that the perimeter security measures will be adequate. The demonstration may include one or more of the following:

- security guards;
- security alarm for critical structures;
- perimeter breach detectors and on-site motion detectors; and
- video or still camera monitoring system.

Of the chemicals proposed for use at the SFERP, the aqueous ammonia represents the greatest potential health risk. As such, the City will be required to prepare a Risk Management Plan (RMP) for the project. The RMP that the City will be required to prepare (under both state and federal regulations) will include an evaluation of the potential modes of failure for the ammonia system and equipment that could lead to the release of ammonia, will develop training, planning, and maintenance procedures for safely handling and storing the ammonia, and will determine the potential population that could be affected by a release ammonia. The RMP is intended to ensure that facilities that handle hazardous chemicals will do so in an environmentally safe manner that is protective of the human population near the facilities.

In the Application for Certification, the City documented that a catastrophic failure of the ammonia tank, filled to capacity, would result in ambient

SAN FRANCISCO ELECTRIC RELIABILITY PROJECT (04-AFC-1) INFORMAL WORKSHOP

concentrations of ammonia at the project's fence line of 5 parts per million. This ambient concentration is significantly lower than the California Energy Commission's significance threshold of 75 parts per million and is 5 times less than the exposure limit of 25 ppm that Occupational Safety and Health Administration considers acceptable for occupational exposure for 8 hours per day, 40 hours per week for the working life of an individual.

In addition, the City will be required to comply with numerous local, state, and federal regulations governing the use and storage of hazardous materials and waste at the proposed facility. These requirements are identified in Table S&W-139A for hazardous materials and Table S&W-139B for wastes.

TABLE S&W-139A

Applicable Laws, Ordinances, Regulations, and Standards for the Use and Storage of Hazardous Materials

LORS	Applicability	Requirement
Federal		
CERCLA/SARA/EPCRA		
Section 302, EPCRA (Pub. L. 99-499, 42 USC 11022) Hazardous Chemical Reporting: Community Right-To-Know (40 CFR 370)	Requires one time notification if extremely hazardous substances are stored in excess of TPQs. The facility will have ammonia in concentrations greater than 20 percent and in excess of the threshold quantity of 20,000 pounds.	An Risk Management Plan (RMP) will be prepared for submittal to the San Francisco Department of Public Health.
Section 304, EPCRA (Pub. L. 99-499, 42 USC 11002) Emergency Planning And Notification (40 CFR 355)	Requires notification when there is a release of hazardous material in excess of its RQ.	An Hazardous Materials Business Plan (HMBP) will be prepared to describe notification and reporting procedures.
Section 311, EPCRA (Pub. L. 99-499, 42 USC 11021) Hazardous Chemical Reporting: Community Right-To-Know (40 CFR 370)	Requires that either material safety data sheets (MSDSs) for all hazardous materials or a list of all hazardous materials be submitted to the SERC, LEPC, and local fire department.	The HMBP to be prepared will include a list of hazardous materials for submission to agencies.
Section 313, EPCRA (Pub. L. 99-499, 42 USC 11023) Toxic Chemical Release Reporting: Community Right-To-Know (40 CFR 372)	Requires annual reporting of releases of hazardous materials.	The HMBP to be prepared will describe reporting procedures.
Section 112, Clean Air Act Amendments (Pub. L. 101-549, 42 USC 7412) Chemical Accident Prevention Provisions (40 CFR 68)	Requires facilities that store a listed hazardous material at a quantity greater than the TQ to develop a Risk Management Plan. The facility will have ammonia in concentrations greater than 20 percent and in excess of the threshold quantity of 20,000 pounds.	An RMP will be prepared for submittal to the San Francisco Department of Public Health.

SAN FRANCISCO ELECTRIC RELIABILITY PROJECT (04-AFC-1) INFORMAL WORKSHOP

TABLE S&W-139A

Applicable Laws, Ordinances, Regulations, and Standards for the Use and Storage of Hazardous Materials

LORS	Applicability	Requirement
Section 311, Clean Water Act (Pub. L. 92-500, 33 USC 1251 et seq.) Oil Pollution Prevention (40 CFR 112)	Requires preparation of a Spill, Prevention, Control, and Countermeasure Plan (SPCC) if oil is stored in a single aboveground storage tank with a capacity greater than 660 gallons or if the total petroleum storage (including ASTs, oil-filled equipment, and drums) is greater than 1,320 gallons. The facility will have petroleum in excess of the aggregate volume of 1,320 gallons.	An Spill, Prevention, Control, and Countermeasure Plan (SPCC) will be prepared.
Pipeline Safety Laws (49 USC 60101 et seq.) Hazardous Materials Transportation Laws (49 USC 5101 et seq.) Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR 192)	Specifies natural gas pipeline construction, safety, and transportation requirements.	The natural gas pipeline will be constructed in accordance with 49 CFR requirements.
California		
Health and Safety Code, Section 25500, et seq. (HMBP)	Requires preparation of an HMBP if hazardous materials are handled or stored in excess of threshold quantities.	An HMBP will be prepared for submittal to the San Francisco Department of Public Health.
Health and Safety Code, Section 25531 through 25543.4 (CalARP)	Requires registration with local CUPA or lead agency and preparation of an RMP if regulated substances are handled or stored in excess of TPQs.	An RMP will be prepared for submittal to the San Francisco Department of Public Health.
Health and Safety Code, Section 25270 through 25270.13 (Aboveground Petroleum Storage Act)	Requires preparation of a SPCC plan if oil is stored in a single aboveground storage tank with a capacity greater than 660 gallons or if the total petroleum storage (including ASTs, oil-filled equipment, and drums) is greater than 1,320 gallons. The facility will have petroleum in excess of the aggregate volume of 1,320 gallons.	An SPCC plan will be prepared.
Health and Safety Code, Section 25249.5 through 25249.13 (Safe Drinking Water and Toxics Enforcement Act) (Proposition 65)	Requires warning to persons exposed to a list of carcinogenic and reproductive toxins and protection of drinking water from same toxins.	The site will be appropriately labeled for chemicals on the Proposition 65 list.
California Public Utilities Commission (CPUC) General Order Nos. 112-E and 58-A	Specify standards for gas service and construction of gas gathering, transmission, and distribution piping systems.	Construction of the natural gas pipeline will comply with the standards specified in these General Orders.

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TABLE S&W-139A

Applicable Laws, Ordinances, Regulations, and Standards for the Use and Storage of Hazardous Materials

LORS	Applicability	Requirement
Local		
San Francisco Public Health Code, Article 21	Requires preparation of a Hazardous Materials Certificate of Registration and Hazardous Materials Business Plan for storage of hazardous materials.	A Hazardous Materials Certificate of Registration and HMBP will be prepared for submittal to the San Francisco Department of Public Health.
San Francisco Public Health Code, Article 21A	Requires preparation of a Risk Management Plan for regulated substances.	An RMP will be prepared for submittal to the San Francisco Department of Public Health.
San Francisco Fire Code	Requires proper storage and handling of hazardous materials.	San Francisco Fire Code will be followed for design and construction of the hazardous materials handling facilities.

Notes:

Cal ARP	California Accidental Release Program	MSDS	Material Safety Data Sheet
CAA	Clean Air Act [Amendments]	Pub. L.	Public Law
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act	RMP	Risk Management Plan
CFR	Code of Federal Regulations	RQ	Reportable Quantity
CWA	Clean Water Act	SARA	Superfund Amendments and Reauthorization Act
CUPA	Certified Unified Program Agency	SERC	state emergency response commission
EHS	extremely hazardous substance	SPCC	Spill Prevention Control and Countermeasure Plan
EPCRA	Emergency Planning and Community Right-to-Know Act	TPQ	Threshold Planning Quantity
HMBP	Hazardous Materials Business Plan	TQ	Threshold Quantity
LEPC	local emergency planning committee	USC	United States Code

TABLE S&W-139B

Laws, Ordinances, Regulations, and Standards Applicable to SFERP Waste Management

LORS	Purpose	Requirement
Federal		
Resource Conservation and Recovery Act (RCRA) Subtitle D (Pub. L. 94-580, 42 U.S.C. 6901 et seq.) Solid Waste (40 CFR 239-259)	Regulates design and operation of solid waste landfills where nonhazardous wastes from construction and operation of the SFERP that are not recycled will be disposed.	Solid waste will be collected and disposed of by a collection company at a solid waste landfill that is permitted in conformance with Subtitle D.
RCRA Subtitle C (Pub. L. 94-580, 42 U.S.C. 6921 et seq.) Hazardous Waste (40 CFR 260-299)	Controls storage, transportation, treatment, and disposal of hazardous waste.	Contractors will handle hazardous waste in conformance with Subtitle C.

SAN FRANCISCO ELECTRIC RELIABILITY PROJECT (04-AFC-1) INFORMAL WORKSHOP

TABLE S&W-139B

Laws, Ordinances, Regulations, and Standards Applicable to SFERP Waste Management

LORS	Purpose	Requirement
Clean Water Act (CWA) (33 U.S.C. 1251 et seq.) Water Programs (40 CFR 100-149)	Controls discharge of wastewater to the surface waters of the U.S.	Industrial and sanitary wastewater will be discharged to the San Francisco combined sewer system.
State		
California Integrated Waste Management Act (CIWMA) (California Public Resources Code, Section 40000 et seq.) California Integrated Waste Management Board (14 CCR 17000 et seq.)	Controls solid waste collectors, recyclers, and depositors. Mandates local jurisdictions to meet diversion, or recycling, goals of 25 percent by 1995 and 50 percent by the year 2000.	Solid waste will be collected and recycled or disposed of by a collection company in conformance with the CIWMA.
Hazardous Waste Control Law (HWCL) (California Health and Safety Code, Chapter 6.5)	Controls storage, transportation, treatment, and disposal of hazardous waste.	Hazardous waste will be handled in conformance with the HWCL.
Environmental Health Standards for the Management of hazardous Waste (22 CCR 66001 et seq.)	Controls storage transportation treatment, and disposal of hazardous waste.	Hazardous waste will be handled in conformance with the Title 22 regulations.
Porter-Cologne Water Quality Control Act (California Water Code, Section 13000 et seq.)	Controls discharge of wastewater to surface waters and groundwaters of California.	Industrial and sanitary wastewater will be discharged to the San Francisco combined sewer system.
Asbestos Airborne Toxic Control Measure (California Air Resources Board Regulation) (17 CCR 93106)	Requires implementation of standard dust control measures for projects that disturb less than one acre of soil or rock containing asbestos and preparation of an asbestos dust mitigation plan for projects disturbing an area greater than one-acre.	If applicable, standard dust control measures will be implemented or an asbestos dust mitigation plan will be prepared in accordance with the measure.
Hazardous Waste Source Reduction and Management Review Act of 1989 22CCR §67100.1 et seq	Requires generators of hazardous waste above threshold quantities to prepare a source reduction plan and submit a performance report documenting waste recycling and minimization efforts.	If the SFERP generates hazardous wastes in excess of threshold quantities, the City will file the required documentation.
California Fire Code	Controls storage of hazardous materials and wastes and the use and storage of flammable/combustible liquids as well as the handling of asbestos and asbestos- containing materials during building demolition.	Wastes will be accumulated and stored and asbestos containing materials will be in accordance with Fire Code requirements.

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TABLE S&W-139B

Laws, Ordinances, Regulations, and Standards Applicable to SFERP Waste Management

LORS	Purpose	Requirement
Local		
Bay Area Air Quality Management District Regulation 11-2	Requires notification to the Bay Area Air Quality Management District 10 days prior to commencement of demolition activities whether or not the project will disturb asbestos containing materials.	If applicable, the Bay Area Air Quality Management District will be notified of demolition activities in accordance with Regulation 11-2.
Chapter 34, Section 3407 of the San Francisco Building Code	Establishes requirements for property owners and contractors who engage in activities that remove or disturb lead-based paint on the exteriors of buildings and steel structures.	If applicable, the SFERP will comply with Chapter 36 of the San Francisco Building Code during demolition.
San Francisco General Plan, Environmental Protection Element, Objective 19	Promotes source reduction through reduced use of hazardous materials and generation of hazardous wastes.	The SFERP will minimize the use of hazardous materials and recycle as much waste as possible.
San Francisco General Plan, Environmental Protection Element, Objective 21	Controls illegal disposal and eliminates land disposal of untreated waste by requiring legal disposal of waste and encouraging enforcement actions against generators who dispose of hazardous wastes illegally.	The SFERP will legally dispose of all hazardous waste and will recycle as much of this waste as possible.
San Francisco Source Reduction and Recycling Element of the County Integrated Waste Management Plan	Specifies how the City and County would achieve waste diversion goals of 25 percent by 1995 and 50 percent by 2000, including requirements for source reduction and recycling.	The SFERP will comply with the goals of the Source Reduction and Recycling Element.
City and County of San Francisco Resolution 679-02	Establishes a citywide goal of 75 percent recycling by 2010 and a long-term goal of zero waste.	The SFERP will comply with the City and County of San Francisco recycling goal.
City and County of San Francisco Resolution 002-03-COE	Establishes a citywide goal of zero waste production by 2020.	The SFERP will comply with the City and County of San Francisco recycling goal.
City and County of San Francisco Hazardous Waste Management Plan	Provides guidance for local management of hazardous waste.	The SFERP will comply with the County's Hazardous Waste Management Plan.
San Francisco Health Code, Article 6	Provides regulatory requirements for garbage and refuse collection and transfer stations in the City and County of San Francisco.	Refuse collection will comply with the requirements of Article 6.
San Francisco Public Health Code, Article 21	Requires preparation of a Hazardous Materials Business Plan (HMBP) for storage of hazardous materials, including hazardous wastes. Also requires owner to close the facility in accordance with an approved closure plan.	An HMBP will be prepared for submittal to the San Francisco Department of Public Health and a closure plan will be prepared and implemented upon closure of the facility.

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TABLE S&W-139B

Laws, Ordinances, Regulations, and Standards Applicable to SFERP Waste Management

LORS	Purpose	Requirement
San Francisco Health Code, Article 22	Specifies requirements for hazardous waste management in San Francisco.	Hazardous wastes produced during construction and operation will be managed in accordance with Article 22.
San Francisco Health Code, Article 22A	Previously referred to as the "Maher Ordinance," requires a site history, soil investigation, and mitigation plan for site contamination for sites bayward of the historic high tide line that require excavation of 50 cubic yards or more of soil.	A site history has been completed. The SFERP will implement a site investigation and prepare a site mitigation plan and maintenance plan if required.
San Francisco Public Works Code, Article 4.1	Establishes discharge limitations for industrial wastewater discharges to the combined sewer system and requires a permit for discharge.	Groundwater produced during dewatering and nonhazardous wastewater produced during construction and operation of the SFERP will be discharged to the combined sewer system in accordance with the requirements of this article.
City and County of San Francisco Department of Public Works Order No. 158170	Specifies discharge limitations for discharge to the combined sewer system in addition to those specified in Article 4.1.	Groundwater produced during dewatering and nonhazardous wastewater produced during construction and operation of the SFERP will be discharged to the combined sewer system in accordance with the requirements of this order.

S&W-140. Provide copies of the MSDS for chemicals used at the plant site (See Data Requests #27 & #28)

Response: The City provided Material Safety Data Sheets (MSDSs) for the water treatment products requested in Data Request Nos. 27 and 28. The MSDSs were procured from the vendors of these products. It is the City's understanding that a more complete listing of chemicals contained in the products is now being requested. Contacts with the vendors indicates that the exact composition is proprietary and the information presented on the MSDS only pertains to hazardous chemicals that present a physical or health hazard. Thus, the City has been unable to obtain further details from the vendors.

S&W-141. What type of material will be stored within the 90-day hazardous material storage area and what security measures will be incorporated in the design of this facility to prevent unauthorized access?

Response: Typical materials to be stored in the 90-day hazardous materials storage area are oily rags, empty chemical containers, used lubricants, etc. This area would be a covered and would be located on a curbed concrete pad near

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the warehouse. The area would be inside the fenced plant perimeter. The plant will have a motorized gate to controlled access into the facility.

- S&W-142. Are pollutants transferred to the water used in the cooling process and could this create a water quality impact on discharges made to the combined sewer system?

Response: The chemicals added to the plant's cooling towers would be similar to chemicals added to the cooling towers on commercial buildings throughout the city. Cooling tower blowdown (i.e., water discharged into the City's combined sewer system) would meet all the City requirements for industrial waste discharge. This is typical for power plants and other industrial (commercial) cooling tower users. There would be no water quality impact on the combined sewer system.

- S&W-143. Justify the decision to add treatment chemicals based on flow instead of using a feedback loop and adding treatment chemicals based on concentration.

Response: It has been the City's experience at their water pollution control plants that a flow-based chemical control system will work more effectively and reliably than one based on concentration. Flow metering has been a proven, reliable technology for a very long time. However, measurement of solids in a liquid stream has not proven to be consistently reliable and suffers from solids buildup within the sampling system.

- S&W-144. Why is only 7 days of storage provided for sulfuric acid when more days of storage is provided for other treatment chemical? (See DR #104)

Response: The volumes of the chemicals stored were selected based on available standard volumes. These volumes would represent a worst case scenario for onsite storage volumes. In the actual operation for the peaking plant, the onsite supply of sulfuric acid will be sufficient for 3 to 4 weeks of typical peaking operation. During the detail design phase when chemical consumption is better defined, the non-sulfuric acid chemicals may be determined to be available in smaller standard container sizes.

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ATTACHMENT S&W-132

**Department of Public Works Order No. 158170
and Article 4.1 of the San Francisco Public
Works Code**



CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF PUBLIC WORKS

ORDER NO. 158170

This Order is being adopted in compliance with the requirements of the Federal Clean Water Act, as amended, and attendant Environmental Protection Agency regulations. Industrial waste discharge limits on wastewater discharges into the City's sewerage system have been proposed for adoption pursuant to this Order.

Comments and testimony have been received at a Public Hearing on December 18, 1991, at Room 228, City Hall, City and County of San Francisco, CA. Documents consisting of the Final Report on Local/General Discharge Limitation Development, REED International Ltd., Berkeley, CA, July 1991; California Regional Water Quality Control Board letter of approval, dated September 23, 1991; and Bureau of Environmental Regulation and Management staff report, dated November 18, 1991, can be found at the Bureau office at file number 382 upon request.

Pursuant to Chapter X (Public Works Code) of Part II of the San Francisco Municipal Code, Article 4.1, the Director of Public Works hereby adopts the following provisions:

1. The characteristics of any 24 hour composite sample representative of a wastewater discharge generated over that period of time shall not exceed the following concentration-based numerical limits:

<u>Pollutant/Pollutant Parameter</u>	<u>Limit (mg/l)</u>
Arsenic (as Total)	4.0
Cadmium (as Total)	0.5
Chromium (as Total)	5.0
Copper (as Total)	4.0
Lead (as Total)	1.5
Mercury (as Total)	0.05
Nickel (as Total)	2.0
Silver (as Total)	0.6
Zinc (as Total)	7.0
Phenols	23.0
Cyanide (as Total)	1.0

2. These numerical limits shall apply at the point of wastewater discharge into the sewerage system of the City and County of San Francisco with the proviso that no discharger shall increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate wastewater management to achieve compliance with the requirements of this Order;
3. On an individual discharger basis, the Director may consider inclusion of local limits greater than those specified in this Order provided that the two following conditions are met:
 - (a) the discharger's inability to meet concentration-based limits specified in this Order is caused solely by implementation of a significant water reclamation or water reuse program at the discharger facility, and

- (b) the amended concentration-based limit does not result in an increase in the mass emission of that pollutant from the discharger facility;
4. In addition to any other provision of this order, all dischargers must comply with all the requirements of Chapter X (Public Works Code) of Part II of the San Francisco Municipal Code, Article 4.1 ("Industrial Waste Ordinance");
 5. All of the pollutants/pollutant parameters specified above are defined in the Federal regulations at 40 CFR Part 136 (1991);
 6. This Order rescinds City and County of San Francisco Department of Public Works Order No. 104,407, adopted March 3, 1976;
 7. The provisions of this Order are effective immediately.



Richard J. Evans
Director of Public Works

Date of Order:

Dec 18, 1991

ARTICLE 4.1

INDUSTRIAL WASTE

Sec. <u>118</u> .	Purpose.
Sec. <u>119</u> .	Definitions.
Sec. <u>120</u> .	Authority of the General Manager.
Sec. <u>121</u> .	Emergency Actions.
Sec. <u>122</u> .	Right to Enter Premises.
Sec. <u>123</u> .	Limitations and Prohibitions.
Sec. <u>124</u> .	Permit Provisions.
Sec. <u>125</u> .	Permit Process.
Sec. <u>126</u> .	Registration by Wastewater Producers.
Sec. <u>127</u> .	Reporting and Sampling Requirements.
Sec. <u>128</u> .	Variances.
Sec. <u>129</u> .	General Manager's Hearings.
Sec. <u>130</u> .	General Manager's Hearings for Rules and Regulations.
Sec. <u>131</u> .	Industrial Waste Review Board.
Sec. <u>132</u> .	Enforcement and Cost Reimbursement.
Sec. <u>133</u> .	Penalties.
Sec. <u>134</u> .	Liens.
Sec. <u>135</u> .	Newspaper Notification of Violations.
Sec. <u>136</u> .	Disclosure of Information.
Sec. <u>137</u> .	Retention of Discharger Information.
Sec. <u>138</u> .	Severability.
Sec. <u>139</u> .	Citizen Enforcement Actions.

SEC. 118. PURPOSE.

The purpose of this Article and the City's industrial waste pretreatment program is to protect human health and the environment by preventing the discharge of pollutants into the sewerage system that would: (i) obstruct or damage the system; (ii) interfere with, inhibit or disrupt treatment facilities and processes, or the processing, use or disposal of sludge; (iii) pass through the sewerage system and contribute to violations of regulatory requirements imposed on the City; or (iv) otherwise harm, or threaten to harm human health or the environment. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 119. DEFINITIONS.

For the purpose of this Article, the following definitions shall apply:

(a) **Act.** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

(b) **Approved Side Sewer.** A sewer constructed and maintained in accordance with applicable City laws and regulations.

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(c) **Baseline Monitoring Report.** A comprehensive report submitted to the General Manager by certain dischargers pursuant to Section 127. This report shall comply with the requirements of federal regulations at 40 CFR 403.12(b)(1990), which is incorporated by reference in this Article.

(d) **Bioaccumulative Toxic Substance.** A toxic substance that concentrates in living organisms through direct assimilation or accumulation in the food chain, as defined in Title 22, California Code of Regulations and any amendments thereto.

(e) **Biochemical Oxygen Demand (BOD) Test.** The empirical bioassay-type procedure specified in federal regulations at 40 CFR Part 136 (1990) that measures the dissolved oxygen consumed by microbial life while assimilating and oxidizing the organic matter present.

(f) **Categorical Pretreatment Standard or Pretreatment Standard.** A regulation containing pollutant discharge limits promulgated by the United States Environmental Protection Agency (EPA) in accordance with Sections 307(b) and (c) of the Act.

(g) **City.** The City and County of San Francisco.

(h) **Class I Permit.** An order issued by the General Manager that grants a significant industrial user permission to discharge into the City's sewerage system.

(i) **Class II Permit.** An order issued by the General Manager that grants a minor discharger permission to discharge into the City's sewerage system.

(j) **Department.** Unless otherwise stated, the Public Utilities Commission of the City and County of San Francisco.

(k) **General Manager.** The General Manager of the Public Utilities Commission of the City, or a designated representative of the General Manager.

(l) **Discharge.** The direct or indirect introduction of pollutants or wastewater into the sewerage system.

(m) **Discharger.** The owner of record, lessee, sublessee, mortgagee in possession, or any person, whether located within or outside City boundaries, that (i) discharges or threatens to discharge pollutants into the sewerage system, or (ii) is responsible for the process which directly or indirectly introduces pollutants into the sewerage system.

(n) **Flammable or Explosive Substances.** Pollutants which create a fire or explosion hazard in the sewerage system, including, but not limited to, pollutants with a closed cup flashpoint of less than 140°F Fahrenheit (60°C Celsius), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80 or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3828-81.

(o) **Grab Sample.** An individual sample of wastewater collected over a period of time not exceeding 15 minutes, as defined in federal regulations at 40 CFR 403.7(d)(2)(iv) (1990).

(p) **Hydrocarbon Oil and Grease.** The empirical test for that fraction of total recoverable oil and grease that is of a petroleum nature as specified in federal regulations at 40 CFR Part 136 (1990).

(q) **Industrial User.** Used interchangeably with Discharger.

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(r) **Interference.** An inhibition or disruption of the sewerage system, treatment processes or operations, or sludge processes, including the use or disposal of sludge, which causes or threatens to cause a violation of any requirement of the City's permits to operate sewage treatment facilities as defined by State or federal laws and regulations. Violations include, but are not limited to, an increase in the magnitude or duration of a violation and the prohibition of City use or disposal of sludge.

(s) **Minor Discharger.** A discharger other than a significant industrial user.

(t) **New Source.** Any person who becomes or may become a discharger subject to this Article under the following circumstances:

(i) The person proposes to discharge wastewater into the sewerage system or submits a Class I or Class II permit application for the proposed initial wastewater discharge from any location, or (ii) the person submits a permit application for a proposed discharge of trucked waste under Section 124(d), or (iii) the person is notified that a proposed discharge, or a modification or addition to an existing discharge, will be subject to Categorical Pretreatment Standards pursuant to a certification under 40 CFR 403.6 (1990), or any amendment thereto, or (iv) the discharge results from a new source as defined in 40 CFR 403.3(k) (1990), regardless of when a permit application is submitted, or (v) the discharge is determined to be subject to any new source requirements of this Article by the General Manager.

(u) **Ninety Day (90-Day) Compliance Report.** A compliance report submitted to the General Manager by certain dischargers pursuant to Section 127(d) or a permit, notifying the General Manager whether compliance has been or is being achieved. For Class I permittees, this report shall comply with the requirements of federal regulations at 40 CFR 403.12(d) (1990), which are incorporated by reference in this Article.

(v) **NPDES (National Pollutant Discharge Elimination System) Permit.** Any permit issued to the City by the United States Environmental Protection Agency or the State of California, applicable to the City's discharges from the sewerage system into the receiving waters pursuant to Section 402 of the Act.

(w) **Order.** A written determination, revocation, authorization, permission, or document issued by the General Manager pursuant to this Article.

(x) **Pass-Through.** A discharge that enters receiving waters through the sewerage system in quantities or concentrations which alone, or in combination with a discharge or discharges from other sources, causes or threatens to cause a violation of the City's NPDES permits, including an increase in the magnitude or duration of a violation.

(y) **Permit.** Authorization issued to a discharger by the General Manager pursuant to Sections 124 and 125 allowing the discharge of wastewater into the City's sewerage system in accordance with all applicable laws and regulations.

(z) **Person.** An individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, any group or a combination acting as unit, the United States of America, the State of

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California and any political subdivision of either thereof, or any public entity organized pursuant to the laws of the United States of America or the State of California.

(aa) **Pollutant.** The term pollutant means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, any substances listed in Section 123(a), (b), (c) or (e) of this Article, and industrial, municipal, or agricultural waste, which is or may be introduced into the City's sewerage system.

(bb) **Properly Ground Garbage.** The wastes from the preparation, cooking, and dispensing of food which has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the sewerage system.

(cc) **Quarterly Reports.** Reports submitted by a Class I permit holder to the General Manager as provided in EPA regulations at 40 CFR 403.12(e) (1990), which are incorporated by reference in this Article.

(dd) **Receiving Waters.** The waters contiguous to the City, including, but not limited to, Central Basin, China Basin, India Basin, Islais Creek Channel, the Pacific Ocean, San Francisco Bay, South Basin, and South Bay.

(ee) **Sewerage System.** All public facilities for collecting, transporting, treating and disposing of stormwater and pollutants in wastewater. The sewerage system includes facilities owned and operated by public entities other than the City, where such facilities direct wastewater into the sewerage system and are subject to the jurisdiction of the City as defined by law, contract, or interjurisdictional agreement.

(ff) **Sewer Service Charge.** The charge assessed for collecting, transporting, treating and disposing of wastewater in accordance with this Article, Articles 4.2 and 4.3 of the Public Works Code, as amended from time to time, and annual rate resolutions adopted by the Board of Supervisors.

(gg) **Significant Industrial User.** A person that is:

- (1) Subject to Categorical Pretreatment Standards; or
- (2) Discharges 25,000 gallons per day or more of wastewater, excluding sanitary, noncontact cooling and boiler blowdown wastewater; or
- (3) Discharges wastewater that constitutes five percent or more of the average dry-weather hydraulic or organic (BOD, TSS) capacity of the tributary water pollution control plant; or
- (4) Discharges a wastestream that, in the opinion of the General Manager, will or may adversely affect the sewerage system by causing interference, pass-through of pollutants, sludge contamination, or endangerment of City workers.

(hh) **Significant Noncompliance.** For purposes of Section 135 of this Article, a discharger is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits; defined here as those in which 66 percent or more of all of the measurements taken during a six-month period exceed (by

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any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(2) Technical review criteria (TRC) violations; defined here as those in which 33 percent or more of all of the measurements taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a discharge limitation that the General Manager believes has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of Department personnel or the general public);

(4) Any discharge of a pollutant that may cause imminent endangerment to human health, welfare or to the environment and has resulted in the General Manager's exercise of his or her emergency authority to halt or prevent such a discharge;

(5) Violation, by 90 days or more after the schedule date, of a compliance schedule milestone contained in any permit or order issued by the General Manager, for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide required reports such as baseline monitoring reports, 90-day compliance reports, quarterly monitoring reports, compliance schedule progress reports, and any other reports required by the General Manager within 30 days of the due date;

(7) Failure to accurately report noncompliance; or

(8) Any other violations or group of violations which the General Manager determines will adversely affect the operation of the sewerage system or implementation of this Article.

(ii) **Sludge or Sewage Sludge.** A liquid, semisolid or solid residue that contains material removed during the treatment of wastewater discharged from domestic and nondomestic sources.

(jj) **Soluble Threshold Limit Concentration (STLC).** The concentration of a solubilized and extractable bioaccumulative or persistent toxic substance which, if equaled or exceeded in a waste, renders the waste hazardous as defined in Title 22, California Code of Regulations and its amendments.

(kk) **Total Recoverable Oil and Grease.** The empirical test for oil and grease, whether petroleum based or otherwise, as defined by EPA analytical methodology provided in federal regulations at 40 CFR Part 136 (1990).

(ll) **Total Suspended Solids (TSS) Test.** The empirical test for total suspended solids (or nonfilterable residue), specified in federal regulations at 40 CFR Part 136 (1990) that defines those solids that are retained by a glass filter and dried to constant weight at 103 - 105 degrees Celsius.

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(mm) **Trucked Waste Discharger.** Persons who discharge wastewater into the sewerage system by truck hauling, rail access, a dedicated pipeline, or any means other than an approved side sewer.

(nn) **Wastewater.** Water containing pollutants, including sanitary waste and stormwater, which is or may be discharged into the sewerage system by any person subject to this Article. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 120. AUTHORITY OF THE GENERAL MANAGER.

(a) The General Manager is authorized to administer and enforce the provisions of this Article; to conduct an industrial waste pretreatment program; to issue permits containing discharge requirements, indemnification and surety provisions and other conditions; to deny or revoke any permits, orders or variances issued pursuant to this Article; to promulgate local limitations imposing specific discharge requirements; to enforce the provisions of this Article by any lawful means available for such purpose; to monitor and inspect any wastewater discharger; to require dischargers to perform and submit for the General Manager's review and approval wastestream and process environmental audits and to require dischargers to implement any objectives, including reclamation and waste minimization objectives, identified by the audits; and to promulgate such orders, rules and regulations necessary to accomplish the purposes of this Article in accordance with the requirements that have been or may be promulgated by federal or state legislatures, the Environmental Protection Agency, the State Water Resources Control Board, the Regional Water Quality Control Board for the San Francisco Bay Region or other authorized agencies.

(b) The General Manager is authorized to require the construction and use of pretreatment systems or devices to treat wastewater prior to discharge to the sewerage system when necessary to restrict or prevent the discharge of wastewater in violation of the Categorical Pretreatment Standards or exceeding the limits established by this Article, or to distribute wastewater discharges over a period of time. The General Manager may require any discharger to develop a compliance schedule containing dates for the commencement and completion of major events leading to the construction and operation of pretreatment systems or devices necessary for compliance with the provisions of this Article in the shortest time possible. No compliance schedule shall allow more than nine months between any two major event dates. All proposed pretreatment systems or devices shall be subject to the review and comment of the General Manager, but such review shall not relieve a discharger of the responsibility for taking all steps necessary to comply with all applicable wastewater discharge limitations and standards pursuant to this Article and other laws. All required pretreatment systems or devices shall be installed, operated and maintained at the discharger's expense.

(c) The General Manager may, by permit or order, require a discharger to construct, in accordance with current City standards and at the discharger's expense, a monitoring facility in each side sewer in the street or sidewalk area, or in areas further upstream on the discharger's property, for wastewater monitoring purposes. The construction shall be completed within the time set forth in the permit or order.

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(d) Any permit may be revoked, modified or suspended by the General Manager, in addition to other remedies provided by law, when such action is necessary to stop a discharge or a threatened discharge that may present a hazard to the public health, safety, welfare, natural environment, or sewerage system, to prevent or stop violations of this Article, or to implement programs or policies required or requested of the City by appropriate state or federal regulatory agencies. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 121. EMERGENCY ACTIONS.

The General Manager is authorized to take all necessary actions to immediately and effectively halt or prevent any discharge or threatened discharge of pollutants to the sewerage system that may be an imminent endangerment to the health or welfare of persons or to the environment, or that interferes or threatens to interfere with the operations of the sewerage system. The discharger shall immediately cease undertaking such action or discharge of any wastewater presenting such a hazard upon verbal or written notification by the General Manager. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 122. RIGHT TO ENTER PREMISES.

(a) Upon showing of proper credentials, persons authorized by the General Manager, when necessary for the performance of their duties, shall have the right to enter the discharger's premises. Such authorized personnel may have access to any facilities and records necessary for determining compliance, including, but not limited to, the ability to copy any records, inspect any monitoring equipment, and sample any wastewater subject to regulation under this Article. Notwithstanding any provision of law, persons authorized by the General Manager may enter a discharger's premises at any time if the General Manager determines that an imminent hazard to persons or property exists on or as a result of activities conducted on the discharger's premises.

(b) The General Manager may inspect the process areas of a discharger, inspect chemical and waste storage areas, inspect, sample and monitor wastewater production activities. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 123. LIMITATIONS AND PROHIBITIONS

(a) Any grab sample of the discharger's wastewater shall not at any time exceed any of the following numerical limitations:

POLLUTANT PARAMETER LIMITS

- (1) pH 6.0 min; 9.5 max
- (2) Dissolved sulfides 0.5 mg/l
- (3) Temperature (except where higher temperatures are required by law) 125° F (52° C)
- (4) Hydrocarbon oil and grease 100 mg/l

(b) Any composite sample representative of the total discharge of the wastewater discharge generated over a production week shall not exceed the following numerical limitation:

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POLLUTANT PARAMETER LIMIT

Total recoverable oil and grease 300 mg/l

Representative composite total recoverable oil and grease samples shall be composited by grab sampling, as required in federal regulations at 40 CFR Part 403 (1990), which are incorporated by reference in this Article.

(c) In addition to the provisions of this Article, all dischargers must comply with all requirements set forth in federal Categorical Pretreatment Standards and other applicable federal regulatory standards, applicable State orders and water quality control regulations, sewage discharge permits and orders issued to the City by federal and State agencies, federal and State pretreatment program approval conditions, local discharge limitations and regulations promulgated by the General Manager and the City, and any other applicable requirement regulating the discharge of wastewater into the sewerage system. The General Manager is authorized to develop and enforce such local limitations as he or she deems necessary for the City's compliance with State and federal laws and requirements and the enforcement of this Article.

(d) Discharge of wastewater containing radioactive materials is permitted only if the following conditions are satisfied:

- (1) The discharger obtains a permit from the General Manager for the discharge of radioactive materials;
- (2) The discharger is authorized to use radioactive materials by the Nuclear Regulatory Commission or other governmental agency empowered to regulate the use of radioactive materials; and
- (3) The radioactive material is discharged in strict conformity with all Nuclear Regulatory Commission or other governmental agency requirements.

(e) No person shall discharge, deposit, throw, cause, allow or permit to be discharged, deposited or thrown into the City's sewerage system any substance of any kind whatever, including oxygen-demanding pollutants, that may or will in any manner cause interference or pass-through, obstruct or damage the sewerage system, cause a nuisance, interfere with the proper operation, repair or maintenance of the sewerage system, interfere with the proper operation, repair or maintenance of a reclaimed water production or distribution facility, create difficulty for any workers to repair or maintain any part of the sewerage system, or directly or indirectly cause a violation of the City's federal or State sewage discharge permits or any other requirement applicable to the City. Such substances include, but are not limited to the following:

- (1) Ashes, cinders, sand, gravel, dirt, bark, leaves, grass cuttings and straw, metals, glass, ceramics and plastics, or any other solid or viscous substance capable of causing obstruction to the flow in sewers, or that will not be carried freely under the flow conditions normally prevailing in the City's sewerage system;
- (2) Any flammable or explosive substances;

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- (3) Garbage, excepting properly ground garbage discharged in accordance with this Article, from dwellings and restaurants or other establishments engaged in the preparation of foods and beverages;
 - (4) Any toxic, hazardous, noxious or malodorous substance that either singly or by interaction with other wastes may or will prevent maintenance of the sewerage system or create a nuisance or hazard to the safety of the public or City employees;
 - (5) Any bioaccumulative toxic substance that exceeds the soluble threshold limit concentration (STLC);
 - (6) Any wastewater, in temperature or quantity, which will cause the temperature of influent to exceed 104ø Fahrenheit (40ø Celsius) at the point of introduction to any City wastewater treatment plant;
 - (7) Any liquids, solids or gases or any discharge that may cause damage or harm to any reclaimed water facility, or that may limit or prevent any use of reclaimed water authorized by Title 22 of the California Code of Regulations.
- (f) No person shall discharge without a permit any pollutants, except stormwater, directly or indirectly into a manhole, catchbasin, or other opening in the sewerage system other than an approved side sewer.
- (g) No discharger shall increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the requirements of this Article.
- (h) No person shall discharge groundwater or water from sumps or dewatering facilities into the sewerage system without a permit. An application for a permit pursuant to this subsection shall be submitted to the General Manager no later than 45 days prior to the proposed commencement of the discharge. Each permit for groundwater discharge shall contain appropriate discharge standards and any other appropriate requirements that must be achieved before discharge into the sewerage system may commence. Such discharges shall be subject to payment of sewer service charges in accordance with the provisions of applicable City laws. The General Manager may require the discharger to install and maintain meters at the discharger's expense to measure the volume of the discharge.
- (i) No person shall discharge wastewater associated with groundwater cleanup or remediation plans without first obtaining a permit. An application for a permit pursuant to this subsection shall be submitted to the General Manager no later than 45 days prior to the proposed commencement of the discharge. A permit may be issued only if an effective pretreatment system on the process stream is maintained and operated. Each permit for such discharge shall contain appropriate discharge standards based on this Article and reports or data provided by the discharger, as well as any other appropriate requirements that must be achieved at the time the discharge commences. Such discharges shall be subject to payment of sewer service charges in accordance with the provisions of applicable City laws. The General Manager may require the discharger to install and maintain meters at the discharger's expense to measure the volume of the discharge. The General Manager may require that such dischargers shall indemnify and

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hold harmless the City from any and all costs, claims, damages, fines, remediation costs, losses and other expenses arising from the discharge into the sewerage system.

(j) The discharge of wastewater associated with asbestos abatement operations is authorized without a permit, provided that the wastewater has been pretreated through a system that provides for removal of waterborne asbestos. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 124. PERMIT PROVISIONS.

(a) It shall be unlawful for any significant industrial user to discharge or cause to be discharged any wastewater whatsoever, directly or indirectly, into the sewerage system without first obtaining a Class I permit authorizing the discharge. The General Manager may require minor dischargers to obtain Class II permits containing specified requirements whenever necessary to further the objectives of this Article. It shall be unlawful for any discharger to discharge any wastewater in excess of permit requirements or to violate any other requirement of this Article.

(b) Permits for wastewater discharges may include, but are not limited to, conditions and terms requiring pretreatment of wastewater before discharge; limiting discharge of certain wastewater parameters; restricting peak flow discharges; requiring standards of performance on the wastewater quality; restricting discharge to certain hours of the day; requiring payment of additional charges to defray increased costs to the City created by the wastewater discharge; requiring sampling and monitoring before and during discharge; requiring specific investigations or studies to determine methods of reducing toxic constituents in discharges; and other conditions and terms necessary to achieve the objectives of this Article. Permits shall be issued for a fixed time period not to exceed five years.

(c) Each permit shall include requirements that the discharger shall reimburse the City for extraordinary costs, in addition to the applicable sewer service charge, for treatment, pumping, maintenance of the sewerage system, administration, incidental expenses, inspection and monitoring, and payment of penalties imposed on the City by enforcement agencies caused by the specific characteristics of the discharge into the sewerage system. When the discharge of wastewater or any pollutant causes an obstruction, damage or other impairment to the sewerage system, the discharger shall pay to the City an amount equal to the costs of cleaning and repairing the sewerage system, plus all related administrative costs, penalties and other incidental fees and expenses. Permits for discharges shall not be renewed unless all such costs have been paid to the City.

(d) The discharge of wastewater into the sewerage system through means other than an approved side sewer is prohibited, unless authorized by a permit. This subsection does not apply to groundwater discharges authorized in accordance with Section 123(h) of this Article. Trucked waste dischargers shall obtain a permit from the General Manager prior to commencing any discharge. The General Manager shall prescribe requirements consistent with this Article and any other applicable laws and regulations, including but not limited to requirements to pay appropriate permit fees and charges. Permits shall not be granted to trucked waste dischargers that do not have San Francisco business licenses or are discharging wastewater produced, treated, or stored in facilities not located within the General Manager's

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jurisdiction unless the trucked waste discharger enters into a binding contractual commitment to be subject to and comply with the requirements of this Article and the exercise of the General Manager's authority granted by this Article. The General Manager may require any person subject to this subsection:

- (1) To treat wastewater on its own site prior to discharge into the sewerage system, whether the discharge is through an approved side sewer or by any other means approved by the General Manager;
- (2) To construct a side sewer in accordance with Department specifications and cease the discharge of wastewater in any manner other than through the approved side sewer;
- (3) To provide the General Manager with a compliance schedule, as specified in Section 120(b), for meeting the provisions of this Article;
- (4) To perform and submit for the General Manager's review and approval wastestream and process environmental audits and to implement any objectives, including reclamation and waste minimization objectives, identified by the audits. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 125. PERMIT PROCESS.

(a) Persons discharging wastewater into the sewerage system prior to the effective date of this amendment to this Article shall submit an application for a permit when notified by the General Manager. Except as provided in Section 123(h), (i) and (j), a new source must submit an application at least 90 days prior to commencement of the discharge.

(b) Applicants for either a permit, a permit modification, or a permit renewal shall complete and submit an application for each point of discharge. The General Manager, at his or her discretion, may require submission of information on the characteristics of the discharge in addition to information provided in the application. The completed application shall be submitted by the discharger not less than 90 days prior to the commencement of the discharge or the modified discharge, or in the case of a permit renewal, 90 days prior to the expiration date of an existing permit. The application shall contain the certification required by Section 127(f) of this Article and shall be signed by an authorized representative of the discharger in accordance with Section 127(g) of this Article. No person shall commence discharge prior to issuance of the permit.

(c) No permit may be issued unless the applicant has complied with all requirements of this Article and all applicable City, State and federal laws; the applicant has furnished all requested information; the General Manager determines that there are adequate devices, equipment, chemicals, and other facilities to sample, meter, convey, treat, and dispose of wastewater; and the persons responsible for treatment and control are adequately trained and capable of consistently meeting permit requirements. The General Manager shall take final action on permit denial, issuance, modification, or renewal by sending a copy of the permit to the applicant by certified mail.

(d) The General Manager shall post a notice of permit issuance, denial, renewal or modification at City Hall, or by publication in a newspaper of general circulation. The notice shall include a

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summary of the General Manager's action on the permit, and instructions for filing a public hearing request. The General Manager's action shall be final 15 days after the General Manager's posting or publication of the notice of permit action, or within the time specified in the notice, unless a public hearing request has been filed in accordance with Section 125(e).

(e) Any person who deems that his or her interests or property or that the general public interest will be adversely affected by the General Manager's denial, issuance, modification, or renewal of a permit may request a public hearing within 15 days of the General Manager's posting or publication of a notice of permit action, or within the time specified in the notice. Upon receipt of a timely request for a public hearing, the General Manager shall hold a public hearing after giving the notice provided in Section 129(b). (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 126. REGISTRATION BY WASTEWATER PRODUCERS.

(a) Every person within the General Manager's jurisdiction who engages in any activity or process that collects or produces wastewater and does not discharge such wastewater into the sewerage system through an approved side sewer shall register its activities with the General Manager. The General Manager shall require each registrant to provide information describing the wastewater-producing activity, the nature and characteristics of the wastewater, and the ultimate use or methods of disposal of the wastewater. Registration must be renewed annually.

(b) The General Manager may take samples, inspect and monitor any activity or process subject to this Section, and may require that the collector or producer of wastewater provide monitoring and sampling information. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 127. REPORTING AND SAMPLING REQUIREMENTS.

(a) All dischargers shall submit periodic reports to the General Manager, and the General Manager may require any reports or information appropriate for the nature of any discharge, on a case-by-case basis. Specific reporting requirements shall be specified in the permit, or in compliance directives and orders. Failure to submit complete and accurate reports by the date specified in an order or permit is a violation of this Article.

(b) Dischargers holding Class I permits shall submit periodic reports of compliance on a quarterly basis ("Quarterly Reports"), as specified in the permit. These reports shall include a description of any violations of this Article, remedial measures undertaken by the discharger, process changes, treatment system alterations, and any other information required by the permit. Class I permittees subject to Categorical Pretreatment Standards shall include the information required by 40 CFR 403.12(e) (1990) in each Quarterly Report.

(c) Any new source discharger that must comply with Categorical Pretreatment Standards shall submit a Baseline Monitoring Report at least 90 days prior to commencement of any discharge. Any discharger that becomes subject to Categorical Pretreatment Standards due to promulgation of a new Standard, or pursuant to a certification under 40 CFR 403.6(a)(4) (1990), shall submit a Baseline Monitoring Report within 180 days of the effective compliance date. Every discharger subject to a Class I permit shall submit an amended Baseline Monitoring

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Report whenever the volume or characteristics of its discharge significantly changes, or when required by the General Manager.

(d) Dischargers subject to Class I permits shall submit a 90-day compliance report within 90 days of the compliance date of an applicable Categorical Pretreatment Standard, or, for new sources, within 90 days following commencement of the discharge.

(e) Dischargers subject to a compliance schedule for the construction or operation of pretreatment systems or devices required to meet Categorical Pretreatment Standards shall submit compliance schedule progress reports not later than 14 days after each major event date and the final compliance date. All other dischargers subject to compliance schedules shall submit compliance schedule reports as ordered by the General Manager. Each progress report shall state whether or not the discharger has complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and any steps being taken to return to the established compliance schedule. The General Manager may require such additional information as necessary in any compliance schedule progress report, and may extend the date for submittal, provided that no more than nine months may elapse between any two progress reports.

(f) Every person signing any report required by Paragraphs (a), (b), (c), (d), (e), or (i) of this Section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(g) All reports must be signed by an authorized representative of the discharger. An authorized representative may be:

(1) A principal executive officer or official, if the discharger submitting the reports required by this Section is a corporation or public agency;

(2) A general partner or proprietor if the discharger submitting the report required by this Section is a partnership or sole proprietorship respectively;

(3) A duly authorized representative of the individual designated in Subparagraph (1) and (2) of this paragraph if such representative is responsible for the overall operation of the facility from which the discharge originates.

(h) Dischargers shall notify the General Manager prior to any substantial change in the volume or character of pollutants in any wastewater discharge and shall apply for and obtain an amended permit prior to commencement of such altered discharge.

(i) Dischargers shall immediately notify the General Manager of any discharge or threatened discharge of pollutants, including but not limited to oxygen-demanding pollutants, wastes or hazardous wastes as defined in Title 22 of the California Code of Regulations, or any other

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substances on the discharger's premises that: (i) could cause danger to the public; (ii) may cause interference in the sewerage system; or (iii) constitutes a violation of the requirements of this Article or a permit or order issued by the General Manager. A written report to the General Manager shall be submitted within five working days after the discharge commenced explaining the nature, volume and duration of the noncompliance or release and all remedial and preventive measures taken by the discharger. Such notification and report shall not relieve any discharger of liability for any expenses, including but not limited to, costs for countermeasures, loss or damage to the sewerage system, liability for fines imposed upon the City because of such occurrences, liability for any fines or damages because of such occurrences, or for any damages incurred by a third party.

(j) All dischargers that are required to monitor their discharges shall sample in accordance with the sampling planning, methodology and equipment, and the sample processing, documentation and custody procedures specified in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846, 3rd edition, U.S. Environmental Protection Agency, November, 1986, and any amendments thereto. The analysis of samples shall be performed in accordance with the techniques prescribed in federal regulations at 40 CFR Part 136 (1990), and amendments thereto, which are incorporated by reference in this Article.

(k) Each municipality, sanitation district or local governmental entity located outside the boundaries of the City and County of San Francisco that, pursuant to contract or law, delivers wastewater to the City's sewerage system for treatment and disposal shall immediately notify the General Manager of its approval or the creation of a new source located within its jurisdiction. Each such governmental entity also shall notify each new source that its proposed discharge must comply with the provisions of this Article and other applicable laws. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 128. VARIANCES.

The General Manager shall hear and make determinations regarding applications submitted by dischargers for variances from the strict application of the requirements of this Article. Variance determinations shall be issued as specified in Section 129. The General Manager may grant variances only when such action is consistent with this Article's general purpose and intent and the general and specific rules contained in this Article. A variance shall not be granted unless the General Manager finds that the applicant is or will be in violation of this Article, and that due to circumstances beyond the reasonable control of the applicant, requiring compliance would result in unavoidable and excessive hardship. Practical difficulties associated with treatment systems or the expense of appropriate treatment shall not, standing alone, constitute circumstances beyond the reasonable control of the applicant. The General Manager shall not grant variances from applicable federal or State discharge standards. This subsection shall in no way limit the powers and authority of the General Manager pursuant to this Article. A pending variance application shall not be a defense to any enforcement action of the General Manager, or to any civil or criminal action under this Article. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

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SEC. 129. GENERAL MANAGER'S HEARINGS.

(a) The General Manager shall hold a public hearing for the following purposes:

- (1) To grant or deny a variance application submitted pursuant to Section 128;
- (2) To issue an order that imposes an administrative civil penalty pursuant to Sections 132(c) and 133(c) of this Article;
- (3) To issue and order pursuant to Section 132 of this Article that revokes or suspends a permit;
- (4) To take public comment on a permit application under Section 125, upon timely and proper request by a person authorized pursuant to Section 125(e).

(b) Notices of public hearings pursuant to this Section shall be given by publication in a newspaper of general circulation in the City for at least two days and not less than 10 days prior to the date of such hearing. Written notice setting forth the date of a public hearing shall be sent to interested persons by certified mail at least 10 days in advance of such hearing. The notice shall state the nature and purpose of the public hearing.

(c) At the conclusion of a public hearing, the General Manager may take any action consistent with this Article and other applicable law. The General Manager's decision shall be in writing, and shall contain a statement of reasons in support of the decision. Following a public hearing, the decision of the General Manager shall be sent by certified mail to the discharger and any other interested person. The General Manager's action shall be final unless an appeal, if provided by this Article, is filed in accordance with Section 131.

(d) Within 30 days after service of a copy of a final order issued after a public hearing required by Subsection (a) of this Section, any person so served may file with the Superior Court a petition for writ of mandate for review of the order. Any person who fails to file the petition within this 30-day period may not challenge the reasonableness or validity of an order of the General Manager in any judicial proceedings brought to enforce the order or for other remedies. Except as otherwise provided in this Section, Section 1094.5 of the California Code of Civil Procedure shall govern any proceedings conducted pursuant to this subsection. In all proceedings pursuant to this Section, the court shall uphold the order of the General Manager if the order is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any accrual of any penalties assessed pursuant to this Article. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 130. GENERAL MANAGER'S HEARINGS FOR RULES AND REGULATIONS.

(a) Before the General Manager approves the issuance or amendment of any rule or regulation, the General Manager shall provide a 30-day public comment period by providing published notice in an official newspaper of general circulation in the City and County of San Francisco of the intent to issue or amend the rule or regulation. The notice shall state the date, time and place of a public hearing at which the General Manager will take public comment on the proposed rule or regulation.

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(b) At the conclusion of the public hearing, the General Manager may take any action consistent with this Article and other applicable law.

(c) Subject to the requirements of this Section, the General Manager is authorized to:

(1) Adopt or amend concentrations of wastewater constituents for the purpose of assessing sewer service charges for any discharger not required to sample and analyze its wastewater.

(2) Adopt or amend any local discharge limitations, rules or regulations required by law or deemed necessary by the General Manager to achieve the purposes of this Article.
(Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 131. INDUSTRIAL WASTE REVIEW BOARD.

(a) **Membership.** There is hereby continued an Industrial Waste Review Board which shall consist of five members who have had not less than five years of professional experience related to water pollution abatement. Members of the Board will serve on call on a per diem basis. The General Manager shall make succeeding four-year appointments at the expiration of the existing appointments. The members so chosen will be the voting members of the Board. The Manager of the Bureau of Water Pollution Control, or a designated representative, shall be an ex officio member of the Board, participating in the deliberations of the Board without vote or compensation. The General Manager shall appoint a member of his or her staff to act as Secretary of the Board.

(b) **Compensation.** The voting members of the Board shall receive compensation of \$30 per hour during the time that the Board is convened.

(c) **Quorum.** Three voting members of the Board shall constitute a quorum. Any decision of the Board shall require three concurring votes.

(d) **Powers of the Board.** The Board shall hear and decide appeals from the General Manager's denial, issuance, renewal or modification of a permit pursuant to Section 125, and from the General Manager's decision on a variance pursuant to Section 128. The Board shall not have jurisdiction to hear appeals of orders issued pursuant to Sections 121 or 132. Upon hearing an appeal taken pursuant to this Section, the Board may, subject to the same limitations that are placed upon the General Manager by this Article, approve, disapprove or modify the decision appealed from, in conformity with the following requirements:

(1) In the case of a variance application, the Board shall specify in its findings, as part of a written decision, facts sufficient to establish why the application meets or does not meet, as the case may be, the requirements set forth in Section 128, and if the requirements are deemed to be met, the Board shall prescribe the details and conditions of the variance.

(2) In the case of any permit denial, issuance, modification or renewal, if the determination of the Board differs from that of the General Manager, it shall state in writing any specific error or errors in interpretation of the provisions of this Article, abuse of discretion on the part of the General Manager, or any other basis for revision.

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The Board shall specify in its written findings the facts relied upon in arriving at its determination.

(e) Appeal.

(1) **Filing an Appeal.** Appeals shall be filed with the Secretary of the Board within 15 days after receipt of the decision of the General Manager under Section 129. The Board shall not have jurisdiction to hear an appeal filed after the 15-day period has passed. The Board shall not have jurisdiction to hear an appeal of the denial, issuance, renewal, or modification of the permit if a General Manager's hearing was not requested in accordance with Section 125. A filing fee of \$350 made payable to the General Manager shall accompany the filing of an appeal.

(2) **Standing.** Any person that presented evidence or testimony at a General Manager's hearing on a variance may appeal the General Manager's variance decision to the Board. Appeals of the General Manager's decision on a permit may only be filed by persons authorized pursuant to Section 125(e).

(3) **Contents of Appeal.** The appeal must specifically set forth the alleged error, abuse of discretion or any other basis for the appeal and contain relevant arguments and documentation in support of the appellant's claim.

(4) **Hearing.** The procedure and requirements for the transmittal of the record, notice of hearing, and the record in connection with any appeal under this Section shall be prescribed by the Board.

(f) **Hearing Procedure.** Hearings by the Board shall be held at the call of the Secretary of the Board and at such times as the Board may determine. Hearings shall be conducted in accordance with the following procedure:

(1) The date of the hearing shall not be less than one week nor more than four weeks after receipt of filing the appeal by **the Secretary of the Board.**

(2) **The General Manager will present evidence and a recommendation for resolution. The Board shall hear evidence from the appellant, but appellant may present relevant information not previously submitted to the General Manager only if its failure to present such information to the General Manager was caused by events beyond its control or the Board determines that introduction of such information is essential to the fair resolution of the controversy.**

(3) The Board shall make a final decision within 90 days from the date of filing the appeal, and shall communicate its decision to the General Manager, all appellants, and the discharger. No response from the **Board within 90 days will constitute approval of the General Manager's final decision.**

(4) **The General Manager shall designate a certified court reporter as official reporter of the Board. The reporter shall attend all hearings of the Board and report all testimony, the objections made, and the ruling of the Board.** The fees for the reporter for reporting all of the proceedings and testimony as outlined above shall be a legal charge against the City. The fees for transcripts of the proceedings shall be at the

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expense of the party requesting the transcript as prescribed by Government Code Section 69950, and the original transcript shall be filed with the Secretary at the expense of the party ordering the transcript. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 132. ENFORCEMENT AND COST REIMBURSEMENT.

(a) **Cease and Desist Orders.** Whenever the General Manager finds that a discharge of wastewater is taking place or threatening to take place in violation of any requirement imposed pursuant to this Article, or pursuant to any order, regulation, or permit issued by the General Manager, the General Manager may issue an order directing the discharger to cease and desist such discharges and directing the discharger to achieve compliance in accordance with a detailed schedule of specific actions the discharger must take in order to correct or prevent violations of this Article. The General Manager may order the revocation or suspension of any permit or variance. Any order issued by the General Manager under this Section may require the discharger to provide such information as the General Manager deems necessary to explain the nature of the discharge. The General Manager may require in any cease and desist order that the discharger pay to the City the costs of any extraordinary inspection or monitoring deemed necessary by the General Manager because of the violation.

(b) **Cleanup and Abatement Orders.**

(1) Any person who has discharged or discharges pollutants or wastewater in violation of this Article or any order, regulation, or prohibition issued by the General Manager, shall upon order of the General Manager and at the discharger's expense clean up such wastewater and abate the effects of the unlawful discharge.

(2) The General Manager may perform any cleanup, abatement or remedial work required under Subdivision (1) when required by the magnitude of the violation or when necessary to prevent pollution, nuisance or injury to the environment. Such action may be taken in default of, or in addition to, remedial work by the discharger or other persons, regardless of whether injunctive relief is being sought.

(3) Any discharger who has violated or is in violation of the requirements of this Article shall be liable to the City for costs incurred in abating the effects thereof, or taking other remedial action, including but not limited to administrative costs, inspection costs, attorneys fees, and penalties or other liability imposed upon the City by other agencies.

(c) **Administrative Civil Penalty Orders.**

(1) The General Manager may issue a complaint to any discharger on whom an administrative civil penalty may be imposed pursuant to Section 133(c). The complaint shall allege the acts or failure to act that constitute a basis for liability and the amount of the proposed administrative civil penalty. The General Manager shall serve the complaint by personal service or certified mail and shall inform the discharger so served that a hearing shall be conducted in accordance with Section 129 of this Article, unless the discharger waives the right to a hearing. If the discharger waives the right to a hearing, the General Manager shall issue an order setting liability in the amount

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proposed in the complaint unless the General Manager and the discharger have entered into a settlement agreement, in which case the General Manager shall issue an order setting liability on the amount specified in the settlement agreement. The settlement agreement shall be approved by the City Attorney as to form. Where the discharger has waived the right to a hearing or where the General Manager and the discharger have entered into a settlement agreement, the order shall not be subject to review by any court or governmental agency.

(2) Any hearing required by Subsection (1) shall be conducted in accordance with Section 129.

(3) Orders imposing civil liability issued under this Section shall become effective and final upon issuance. Payment of civil penalties to the General Manager shall be made within 30 days of issuance of the order. Copies of such orders shall be served by personal service or by certified mail upon the discharger served with the complaint and upon other persons who appeared and participated at the hearing and requested a copy.

(d) Injunctive Relief.

(1) Upon the failure of any discharger or dischargers to comply with any requirement of this Article, a permit, or any regulation, prohibition, cease and desist order, cleanup and abatement order, or any other order issued by the General Manager, the City Attorney, upon request of the General Manager, may petition the proper court for injunctive relief, payment of civil penalties, and any other appropriate remedy, including restraining such discharger or dischargers from continuing any prohibited activity and compelling compliance with lawful requirements.

(2) In any civil action brought pursuant to this Article in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued, or that the remedy at law is inadequate. The court shall issue a temporary restraining order, preliminary injunction, or permanent injunction in a civil action brought pursuant to this Article without the allegations and without the proof specified above.

(e) **Termination of Discharge.** In addition to other remedies, when in the judgment of the General Manager the discharger has not or cannot demonstrate satisfactory progress toward compliance with the requirements of this Article, the General Manager, after providing written notice to the discharger by certified mail 30 days in advance of such action, may sever or plug the connection from the discharger's side sewer to the sewerage system or otherwise prevent the discharge of wastewater from the discharger's facilities to the sewerage system.

(f) Orders issued under this Section shall become final upon receipt by the discharger or as specified by the General Manager. Orders may be issued by certified mail, or, except for orders under Paragraph (e), by personal service.

(g) The discharger may request a public hearing within 15 days of the final date of an order issued under Subsections (a), (b) or (e) of this Section. The effective date of such an order shall

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not be postponed solely because of the filing of a request for a hearing. Notice of a public hearing and of the final decision of the General Manager shall be given as provided in Section 129.

(h) Cost Reimbursement by Citizens.

(1) In any instance where the General Manager issues an order to a discharger under this Section for a violation of this Article, and the General Manager determines that information provided by a citizen contributed to the identification of the violation and issuance of the order, the discharger shall, in addition to any other fees or costs authorized under this Section, pay the reasonable costs directly incurred by the citizen in obtaining the information in accordance with the requirements set forth in this subsection. For purposes of this subsection, "citizen" shall have the meaning defined in Section 139(a) of this Article.

(2) Any citizen seeking the recovery of costs pursuant to this subsection shall have the burden of documenting the costs and proving that the costs sought to be recovered are reasonable and accurate. Except as set forth in subparagraph (3), reimbursable costs shall be limited to documented costs directly incurred by the citizen plus an additional five percent of the total amount authorized for recovery of overhead expenses.

(3) In the alternative, where a citizen is either unable, or chooses not to document reimbursable costs otherwise recoverable under this subsection, the discharger shall, in addition to any other fees or costs authorized under this Section, pay \$50 to the citizen for cost reimbursement. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 114-97, App. 3/28/97; Ord. 116-97, App. 3/28/97)

SEC. 133. PENALTIES.

(a) Criminal Penalties.

(1) Except as provided in Subsection (a)(2) of this Section, any person who violates any provision of this Article is guilty of a misdemeanor and upon conviction shall be fined in an amount not exceeding \$1,000 or be imprisoned in County Jail for not more than six months, or both. Each day each violation is committed or permitted to continue shall constitute a separate offense.

(2) Any person who violates Section 123(e), Section 123(f), or Section 123(h) of this Article shall be guilty of:

(A) A misdemeanor in accordance with Subsection (a)(1) of this Section; or

(B) An infraction punishable by a fine in an amount not in excess of \$500. Each day each violation is committed or permitted to continue shall constitute a separate offense.

(3) Falsifying of Information. Any person who knowingly makes any false statement or misrepresentation in any record, report plan, or other document filed with the General Manager, or tampers with or knowingly renders inaccurate any monitoring device or sampling and analysis method required under this Article, shall be punished by a fine of

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not more than \$25,000 or by imprisonment in County Jail for not more than six months, or both.

(b) Civil Penalties.

(1) Any person who, without regard to intent or negligence, causes or permits any discharge of wastewater or hazardous waste, as defined in Title 22, California Code of Regulations and its amendments, into the City's sewerage system, except in accordance with all permit requirements and other provisions of this Article; violates any provision of a cease and desist order or cleanup and abatement order issued by the General Manager; or violates any requirement or prohibition of this Article, shall be liable civilly to the City in an amount not to exceed \$10,000 per day for each violation that occurs.

(2) Any person who intentionally or negligently causes or permits any discharge of wastewater or hazardous waste, as defined in Title 22, California Code of Regulations, into the City's sewerage system, except in accordance with all permit requirements and other provisions of this Article; violates any provision of a cease and desist order or cleanup and abatement order issued by the General Manager; or violates any requirement or prohibition of this Article, shall be liable civilly to the City in an amount not to exceed \$25,000 per day for each violation that occurs.

(c) Administrative Civil Penalties.

(1) Notwithstanding Subsection (b), any person who, without regard to intent or negligence, causes or permits any discharge of wastewater or hazardous waste, as defined in Title 22, California Code of Regulations and its amendments, into the City's sewerage system, except in accordance with all permit requirements and other provisions of this Article; violates any provision of a cease and desist order or cleanup and abatement order issued by the General Manager; or violates any requirement or prohibition of this Article, shall be liable civilly to the City in an amount not to exceed \$1,000 per day for each violation that occurs.

(2) Notwithstanding Subsection (b), any person who intentionally or negligently causes or permits any discharge of wastewater or hazardous waste, as defined in Title 22, California Code of Regulations, into the City's sewerage system, except in accordance with all permit requirements and other provisions of this Article; violates any provision of a cease and desist order or cleanup and abatement order issued by the General Manager; or violates any requirement or prohibition of this Article, shall be liable civilly to the City in an amount not to exceed \$2,000 per day for each violation that occurs.

(3) A civil penalty may not be imposed pursuant to this subsection and Subsection (b) for the same violation.

(d) Remedies under this Section are in addition to, and do not supersede or limit, any and all other civil or criminal remedies available to the City under local, State and federal law. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

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SEC. 134. LIENS.

(a) Costs and charges incurred by the City by reason of the abatement of any violation of this Article, including but not limited to monitoring and inspection costs; a delinquency in the payment of a bill for any industrial waste charge in excess of 30 days; and any civil penalties assessed against a discharger for violations of this Article or against the City for violations caused by a discharger shall be an obligation owed by the owner of the property where the discharge originated in the City. The City shall mail to the owner of the property where the discharge occurred a notice of the amounts due and a warning that lien proceedings will be initiated against the property if the amounts due are not paid within 30 days after mailing of the notice.

(b) Liens shall be created and assessed in accordance with the requirements of Article XX of Chapter 10 of the San Francisco Administrative Code, commencing with Section 10.230. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97; Ord. 322-00, File No. 001917, App. 12/28/2000)

SEC. 135. NEWSPAPER NOTIFICATION OF VIOLATIONS.

The General Manager shall provide for annual notice in the City's largest circulated newspaper of dischargers that were in significant noncompliance during the preceding 12 months. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 136. DISCLOSURE OF INFORMATION.

(a) Any records, reports, or information submitted by a discharger to the General Manager, whether made in writing or by communication incorporated in Department reports, shall be available to the public, except upon a showing made by a discharger satisfactory to the General Manager that public disclosure of records, reports, or information which the General Manager or other authorized personnel has received would divulge methods or processes entitled to protection as confidential trade secrets. All such records, reports, or information at any time may be disclosed to other authorized City personnel or any local, State or federal agency.

(b) Whenever the General Manager makes a written request or orders that a discharger furnish information, the request or order shall include a notice that:

(1) States that the discharger may assert a business confidentiality claim covering specified information; and

(2) States that if no such claim accompanies the information when it is received by the General Manager, it may be made available to the public without further notice to the discharger.

(c) In assessing the validity of a business confidentiality claim, the General Manager shall determine whether the information is entitled by statute or judicial order to confidential treatment. In the absence of such a finding, the General Manager shall make the information available for public disclosure.

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(d) Notwithstanding any other provision of this Section, discharger wastewater data is not confidential and shall be made available to the public without restriction. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 137. RETENTION OF DISCHARGER INFORMATION.

Any reports that must be submitted pursuant to Section 127 to the General Manager by a discharger shall be retained for a minimum of five years and shall be made available for inspection and copying by the General Manager or any State or federal agency. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the discharger or the operation of the City's pretreatment program or when requested by any State or federal agency. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 138. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Article, is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article. The Board of Supervisors declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Article irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases could be declared unconstitutional, invalid or ineffective. (Added by Ord. 19-92, App. 1/23/92; amended by Ord. 116-97, App. 3/28/97)

SEC. 139. CITIZEN ENFORCEMENT ACTIONS.

(a) **Authorization.** Any citizen may commence a civil action on his or her own behalf against any person who is alleged to have violated, or to be in violation of: (i) any requirement imposed pursuant to this Article; or (ii) any order, regulation, variance or permit issued by the General Manager pursuant to this Article. For purposes of this Section and Subsection (h) of Section 132, "citizen" shall mean either of the following:

- (1) An individual who resides in the City; or
- (2) A corporation, partnership or association that maintains its principal office in the City, and which has an interest which is, or may be, adversely affected.

(b) **Notice.** No action may be commenced under Subsection (a) of this Section:

- (1) Prior to 60 days after the citizen has given notice of the alleged violation to (A) the General Manager, (B) the City Attorney, (C) the District Attorney, and (D) the alleged violator or violators of the requirement, order, regulation, variance or permit; or
- (2) If the City has commenced and is diligently prosecuting a civil, criminal, or administrative penalty action pursuant to this Article and the City's enforcement response plan to require compliance with the requirement, order, regulation, variance or

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permit, provided that in any such action brought in State court, any citizen may intervene as a matter of right.

(c) Intervention: Protection of City Interests.

(1) In any action brought under this Section where the City is not a party, the City may intervene as a matter of right.

(2) Whenever an action is brought under this Section, the plaintiff shall serve a copy of the complaint on the City Attorney and General Manager. No consent judgment or settlement shall be entered in an action in which the City is not a party prior to 30 days following receipt of the proposed consent judgment or settlement by the City Attorney and General Manager.

(d) Litigation Costs. The court in issuing any final order brought pursuant to this Section shall award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party who brought the underlying action, when the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought by the citizen, require a filing of a bond or undertaking in accordance with State law and local court rules.

(e) Other relief not restricted.

(1) Nothing in this Section shall restrict any right which any person may have under any statute, ordinance, or common law to seek enforcement of any requirement prescribed by or under this Article, or to seek any other relief.

(2) Nothing in this Section shall be construed to prohibit or restrict the City from bringing any administrative, civil or criminal action or obtaining any remedy or sanction against any person to enforce any requirement set forth in this Article. Nothing in this Section shall be construed to authorize judicial review by a citizen of any permit, role, variance or regulation issued pursuant to this Article. (Added by Ord. 115-97, App. 3/28/97)

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

Technical Area: Waste Management

DATA REQUEST

WM-145. Confirm whether the route to be used in the transport of hazardous materials has changed from that described in the AFC.

Response: At the public workshop held on July 19, 2004, the community seemed interested in having an alternate route for the transport of hazardous materials that would use Cesar Chavez Street to northbound Illinois Street to 23rd Street. This proposed route would use Illinois Street rather than using Third Street. This route is acceptable to the City.

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

Technical Area: Transmission System Engineering

DATA REQUEST

TSE-146. Please provide an explanation of what will happen to the plant in an emergency blackout.

Response: During a system blackout (loss of the power to the grid) condition, the plant has backup batteries that supply emergency electrical power to critical plant control systems. These systems safely bring the power plant into a shutdown mode without danger to equipment, operators, or the surrounding area. When power has been restored to the grid, the plant could go through a normal startup to again produce power for the grid.

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

Technical Area: Air Quality

DATA REQUEST

AQ-147. When will the cumulative impact analysis requested as Data Request #5, be provided?

Response: The cumulative impact analysis will be provided to Staff no later than Friday, August 27, 2004.

AQ-148. Please provide documentation that SCONOX does not provide any benefits over SCR.

Response: The following information is taken from the ARB's draft report to the legislature, titled "Gas-Fired Power Plant NO_x Emission Controls and Related Environmental Impacts," May 2004. [Emphasis added]

University of California San Diego

The system at the University of California San Diego has been in operation since July 2001. This installation operates at 420 F to treat the exhaust gases from two Solar SoLoNO_x Titan 130S gas turbines (26 MW) at a cogeneration plant. Initially, the facility was under a variance with the San Diego County Air Pollution Control District—the turbines passed the start-up source test, but failed their Relative Accuracy Test Audit (RATA).¹ The facility installed a multi-point probe and subsequently passed the test. The plant operator reports that the permit limits are being met, but that maintenance is more extensive than originally estimated. Quarterly CEMS reports from October 2002 through September 2003 indicate no excess NO_x emissions. *The plant operator reports NO_x measurements meet the 2.5 ppmvd at 15% O₂ permit limit between catalyst washings, which are currently conducted about every four months. During the wash process, the plant is down for about three days. The facility has determined that emission levels are best met when all three layers of catalyst are washed, not just the leading layer.* Overall, the facility is pleased with the emissions performance, and they attribute the more frequent washing to the engineering design of the regeneration system (e.g., gas leaks and inefficiencies in regenerating sulfur from the SCOSO_x guard bed). Based on experience from this site, EmeraChem has improved the regeneration system design.

City of Redding

The system at the City of Redding Power Plant in Redding, California, has been in operation since June 2002 and has accumulated approximately 8,300 hours of run time. This installation operates at 600 F to treat the exhaust gases from an

¹ The RATA is essentially an on-site analyzer comparison test between the CEMS analyzers and those used by a RATA testing company. Both systems sample the same source and the results are subjected to statistical analysis and compared. The average accuracy of the CEMS analyzer relative to the RATA analyzer must be within a specific percentage.

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

Alstom Power GTX 100 gas turbine (43 MW) at a combined-cycle plant. Redding Power owns the dampers but has a 15-year lease agreement on the catalyst from Alstom. As such, Alstom is in charge of ongoing catalyst maintenance. The Shasta County Air Quality Management District reports that there have been no major compliance issues in meeting the 2.5 ppmvd at 15% O₂ NO_x permit limit. *To date, the SCONOx catalyst has required washing about three times per year, and the SCOSOx catalyst has not yet required washing. The wash process is generally completed over a weekend. The SCONOx reactor contains three layers of SCONOx catalyst. Since installation, the leading layer of SCONOx catalyst has been replaced—the second and third layers are the originals.*

AQ-149. The notes for the cost/effectiveness tables provided in response to Data Request #8 (i.e., Attachment AQ-8 in Data Response Set 1A) were not included in the data response package.

Response: We apologize for the oversight. The notes for the SCONOx table are as follows:

Note 2: 300 kcfh/MW; s.v.=20 kcfh/ft³; \$1,500/ft³ catalyst; 7 yr. life

Note 3: Scaled from GE LM2500 data in SYCOM report table

Note 4: Scaled from GE LM2500 data in SYCOM report table

Note 5: Interpolated for LM6000 from data for LM2500 and Frame 7FA in SYCOM report table

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

Technical Area: Public Health

DATA REQUEST

PH-150. The response to Data Request #45 provided UTM coordinates for fenceline receptors for the power plant site, but not for the construction laydown area, which was also requested.

Response: We apologize for the oversight. The UTM coordinates for fenceline receptors along the construction laydown area are provided in Table PH-45C below.

TABLE PH-45C
UTM Coordinates for Laydown Area Fenceline Receptors

UTME (meters)	UTMN (meters)
554506.5	4178130.0
554506.5	4178155.0
554506.5	4178180.0
554506.5	4178205.0
554506.5	4178230.0
554506.5	4178255.0
554506.5	4178280.0
554506.5	4178305.0
554506.5	4178330.0
554506.5	4178355.0
554506.5	4178384.0
554529.7	4178374.7
554552.9	4178365.4
554559.0	4178363.0
554586.0	4178352.0
554607.6	4178339.5
554624.0	4178330.0
554649.0	4178330.0
554674.0	4178330.0
554700.0	4178330.0
554700.0	4178305.0
554700.0	4178280.0
554700.0	4178272.0
554675.0	4178272.0
554663.0	4178272.0
554663.0	4178247.0
554663.0	4178222.0
554663.0	4178197.0
554663.0	4178172.0
554663.0	4178150.0
554638.0	4178150.0
554613.0	4178150.0

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

TABLE PH-45C

UTM Coordinates for Laydown Area Fenceline Receptors

UTME (meters)	UTMN (meters)
554588.0	4178150.0
554563.0	4178150.0
554546.5	4178150.0
554546.5	4178130.0
554521.5	4178130.0

**SAN FRANCISCO ELECTRIC RELIABILITY PROJECT
(04-AFC-1)
INFORMAL WORKSHOP**

Technical Area: Hazardous Materials Management

DATA REQUEST

HM-151. Two of the MSDS sheets provided in Data Response Set 1A did not identify the chemical constituent. Please provide that information.

Response: Please see the response to S&W-140.

**BEFORE THE
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

APPLICATION FOR CERTIFICATION)	Docket No. 04-AFC-1
FOR THE SAN FRANCISCO ELECTRIC)	
RELIABILITY PROJECT)	PROOF OF SERVICE
)	*Revised 7/9/04

I, Anar Bhimani, declare that on August 20, 2004, I deposited copies of the attached Informal Data Response, Set 3 (Data Workshop) in the United States mail at Sacramento, CA with first class postage thereon, fully prepaid, and addressed to the following:

DOCKET UNIT

Send the original signed document plus 12 copies to the following address:

**CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 01-AFC-17
DOCKET UNIT, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512**

In addition to the documents sent to the Commission Docket Unit, also send individual copies of all documents to:

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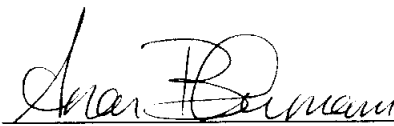
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I declare under penalty of perjury that the foregoing is true and correct.


Anar Bhimani